

Bill as Introduced

SB 162-FN - AS INTRODUCED

2013 SESSION

13-0299

04/03

SENATE BILL

162-FN

AN ACT

relative to licensing of postsecondary career schools.

SPONSORS:

Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

COMMITTEE:

Health, Education and Human Services

ANALYSIS

This bill moves the licensing and regulation of career schools from the department of education to the department of employment security under the direction of the career school commission.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~(in brackets and struck through.)~~

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to licensing of postsecondary career schools.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Career School Licensing. Amend RSA 282-A by inserting after section 180
2 the following new subdivision:

Career School Licensing

4 282-A:181 Applicability. The department of employment security, career school commission
5 shall administer and regulate the licensing of career schools as provided in this subdivision.

6 282-A:182 Definitions; Exclusions.

I. In this subdivision:

8 (a) "Alternative delivery" means a mode of instruction which does not involve face-to-
9 face instruction between instructor and student in the same geographic location. This mode of
10 instruction shall include Internet, televised, video, telephonic, and correspondence media.

11 (b) "Career school" means any for-profit or nonprofit postsecondary career entity
12 maintaining a physical presence in this state providing education or training for tuition or a fee that
13 enhances a person's occupational skills, or provides continuing education or certification, or fulfills a
14 training or education requirement in one's employment, career, trade, profession, or occupation.
15 Schools that offer resident or nonresident programs, including programs using modes of alternative
16 delivery, beyond the secondary school level to an entity shall be included in this definition regardless
17 of the fact that the school's tuition and fees from education and training programs constitute only a
18 part of the school's revenue.

19 (c) "Commission" means the career school commission as established in RSA 282-A:183.

20 (d) "Conference" or "seminar" means a scheduled meeting of 2 or more persons for
21 discussing matters of common concern and where, if training or education is offered, it shall be
22 incidental to the purpose of the conference.

23 (e) "Entity" means any individual, firm, partnership, association, corporation,
24 organization, trust, school, or other legal entity or combination of these entities.

25 (f) "Physical presence" means any physical location, place of contact, telephone
26 exchange, or mail drop in this state, and if an individual is conducting one or more of the following
27 activities within this state:

- 28 (1) Advertising.
29 (2) Solicitation of potential students.
30 (3) Enrollment of students.
31 (4) Providing student services.

1 (5) Student mentoring.

2 (6) Instruction of students.

3 (g) "Third party administrator" means any entity which has been selected through a
4 competitive bidding process conducted by the commission for the purpose of administering the career
5 school licensing process pursuant to this subdivision on behalf of the state.

6 (h) "Vendor" means an entity that promotes or exchanges goods or services for money.

7 (i) "Workshop" means a brief, intensive education or training program that focuses on
8 developing techniques and skills in a particular area.

9 II. In this subdivision, "career school" shall not include:

10 (a) Schools authorized to grant degrees pursuant to RSA 292.

11 (b) Schools specifically licensed as an education or training school by a state agency
12 other than the commission.

13 (c) Schools operated by a business organization exclusively for the training of that
14 business' own employees and at no charge to its employees.

15 (d) Schools offering noncredit courses exclusively for a vocational purposes.

16 (e) Schools established, operated, and governed by the state of New Hampshire or any of
17 its political subdivisions, or any other state or its political subdivisions.

18 (f) Noncredit courses or programs sponsored by recognized trade, business, or
19 professional organizations solely for the instruction of their members that do not prepare or qualify
20 individuals for employment in any occupation or trade.

21 (g) Schools that offer programs and courses exclusively on federal military installations.

22 (h) Companies, individuals, or other legal entities that offer training at seminars,
23 workshops, or conferences, if:

24 (1) Any training or education offered is incidental to the purpose of the seminar,
25 workshop, or conference; and

26 (2) The attendee receiving the training is not awarded any form of a certificate,
27 diploma, or credit including continuing education units for having received the training.

28 (i) Vendors that offer incidental training associated with the purchase of a product from
29 said vendor, if the training is at no cost, its purpose is to familiarize the purchaser with the product's
30 use and the purchaser is not awarded any form of a certificate or diploma for having received the
31 training.

32 (j) An individual or facility training students under 14 C.F.R. part 91 or 14 C.F.R. part
33 141, or receiving flight or ground instruction required by the Federal Aviation Administration.

34 (k) Entities offering only training courses at a total cost, including tuition and all other
35 fees and charges, of not more than \$800 per course for which no payment, including a deposit, is
36 required or collected prior to the first day of the course. This subparagraph shall not apply to
37 entities that use alternative delivery methods.

1 (l) Entities offering training in the trades that have been approved by a state agency
2 with appropriate jurisdiction, including but not limited to the plumbers' board, the electricians'
3 board, the office of the state fire marshal, and the division of fire standards and training and
4 emergency medical services.

5 (m) Computer technology vendors that offer fee-based training on courses of instruction
6 in the use of hardware or software if the course is offered to purchasers of such hardware or
7 software, or to the purchaser's employees, by a person who manufactures and sells, develops and
8 sells, or supports the hardware or software, and if the seller is not primarily engaged in the business
9 of providing courses of instruction in the use of the hardware or software.

10 (n) Entities that license software, the content of which is focused on training or
11 education, if the entity:

12 (1) Is primarily engaged in the business of licensing software;

13 (2) Licenses its software primarily to other legal entities, and not directly to an end
14 user or individual student;

15 (3) Does not confer degrees, diplomas, continuing education units, or any other form
16 of credit in connection with the software that it licenses;

17 (4) Is not accredited and does not seek accreditation in connection with the software
18 that it licenses or the content it offers; and

19 (5) Does not offer an admissions process, financial aid, career advice, or job
20 placement in connection with the software that it licenses.

21 282-A:183 Career School Commission.

22 I. There is established the career school commission in the department of employment
23 security. The commission shall consist of the following members:

24 (a) One member from the department of employment security, appointed by the
25 commissioner of the department of employment security.

26 (b) Two owners or directors of career schools, appointed by the governor and council.

27 (c) One employer who currently utilizes at least one graduate of a career school,
28 appointed by the governor and council.

29 (d) One public member, appointed by the governor and council.

30 (e) One member from the New Hampshire Council for Professional Education, appointed
31 by the executive director of the Council, who shall be a nonvoting member.

32 II. The commission shall elect a chairperson from its membership, and any other officers it
33 deems necessary. The terms of the appointed members shall be 3 years. In the event of a vacancy, a new
34 member shall be appointed for the unexpired term in the same manner as the original appointment. The
35 members of the commission, shall serve without compensation, but may be reimbursed for actual travel
36 and other expenses incurred in the performance of their duties on the commission from funds
37 appropriated to the department of employment security specifically for this purpose.

1 III. The commission shall:

2 (a) Approve all license applications submitted to them by the third party administrator.

3 (b) Annually review and approve all license fees and fines to be imposed, provided that
4 the fees and fines shall be sufficient to produce estimated revenues equal to 120 percent of the direct
5 operating expenses of the commission for the previous fiscal year.

6 (c) Hear appeals from license applicants whose applications are denied.

7 (d) Hear all appeals from aggrieved students.

8 282-A:184 Licenses and Fees.

9 I. Prior to registering or renewing a business or trade name, or soliciting students for
10 enrollment, an entity maintaining a physical presence in this state shall submit an initial license
11 application accompanied by the required application fee to the commission. The commission shall
12 forward all submitted applications to the third party administrator which shall review all
13 applications to determine if an entity requires a license. The commission shall establish procedures
14 to accomplish this review. The commission shall establish an initial license application fee which
15 shall not be not less than \$400. The commission shall establish renewal license application fees in
16 subsequent years based on a percentage of the entity's gross tuition, provided the renewal fee shall
17 not exceed 2-½ percent of the entity's gross tuition. In this paragraph, "gross tuition" means the
18 total amount collected by the entity during its most recently completed fiscal year for tuition,
19 application fees, and registration fees, less any refunds.

20 II. A career school shall register to obtain a license or license renewal from the commission.
21 The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the
22 commission. The rules shall establish minimum criteria, including but not limited to, financial
23 stability, educational program, administrative and staff qualifications, business procedures,
24 facilities, equipment, ethical practices to be met by licensees, criteria for rejecting a licensing
25 applicant, including an administrative hearings process for rejected applicants, and a procedure for
26 suspending or revoking a license.

27 III. An entity that is not required to obtain a license may apply for a license and, upon
28 issuance of the license, shall be subject to the provisions of this subdivision. Such entity may
29 voluntarily surrender its license and revert to its original status.

30 IV. The commission shall adopt rules pursuant to RSA 541-A to establish reasonable fines,
31 reimbursement rates for consultants, and procedures for complaint investigations and enforcement
32 actions, which are necessary for the administration of this subdivision.

33 V. An entity which the third party administrator has determined requires a career school
34 license shall, prior to the issuance of a license, comply with the provisions of this subdivision.

35 282-A:185 Surety Indemnification. Before a license is issued or renewed, a career school shall
36 meet the requirements of this subdivision by providing acceptable surety indemnification as
37 determined in this section.

1 I. A surety bond shall be provided by the career school in an amount prescribed in this section.
2 The obligation of the bond is that the school, its officers, agents, and employees shall faithfully perform
3 the terms and conditions of contracts for tuition and other instructional fees entered into between the
4 career school and entity enrolling as students. The bond shall be issued by a company authorized to do
5 business in the state of New Hampshire. The bond shall be issued in the name of the commission, and
6 is to be used only for payment of a refund of tuition and instructional fees due to a student or potential
7 student, and the expense of investigating and processing the claims.

8 II. The amount of such bond shall be based on income from tuition at 10 percent of gross
9 tuition, with a \$10,000 minimum. If a career school licensed under this subdivision should fail to
10 provide the services required in a contract with any entity, as determined by a court of competent
11 jurisdiction, the bond shall be forfeited, and the proceeds distributed by the commission in such
12 manner as justice and the circumstances require.

13 III. The bond company may not be relieved of liability on the bond unless it gives the career
14 school and the commission 90 days written notice of the company's intent to cancel the bond. If at
15 any time the company that issued the bond cancels or discontinues the coverage, the career school's
16 license is revoked as a matter of law on the effective date of the cancellation or discontinuance of
17 bond coverage, unless a replacement bond is obtained and provided to the commission.

18 IV. For the purposes of this section the forms of indemnification other than a surety bond
19 which may be furnished to the commission for licensure are the following:

20 (a) An irrevocable letter of credit, maintained for the licensing period as a minimum,
21 issued by a financial institution authorized to do business in New Hampshire in an amount to be
22 determined by the commission with the commission designated as the beneficiary; or

23 (b) A term deposit account held in the state treasury, payable to the commission, held in
24 trust for the benefit of students entitled thereto under this section. Said account shall be maintained
25 for the licensing period as a minimum, in an amount determined by the commission. Any interest
26 shall be paid annually to the appropriate career school, unless the term deposit account is activated
27 due to a school closing. Should the licensee for any reason, while not in default, discontinue
28 operation, all moneys on deposit, including any interest, shall be released to the appropriate school
29 subject to the approval of the commission.

30 282-A:186 Inspections. The commission may at any time inspect the premises, curriculum,
31 teaching materials, faculty performance, sales literature, financial data, or other matters which are
32 relevant to the educational and business activities of a licensed career school in order to determine
33 compliance with applicable laws and rules.

34 282-A:187 Revocation; Hearing. The commission may, after due notice and hearing, revoke the
35 license of any career school licensed pursuant to this subdivision for violating the provisions of this
36 subdivision or rules adopted hereunder. The provisions of RSA 541 shall apply to actions taken
37 pursuant to this section.

1 282-A:188 Waiting Period. Every contract that purports to bind any entity to pay money to a
2 career school in return for training shall be construed to be a home solicitation sales contract under
3 RSA 361-B and shall be subject to the provisions of RSA 361-B.

4 282-A:189 Veterans, Education and Services Approval. The department of employment security
5 may approve for veterans' education and services any institution licensed under this subdivision.
6 The department may adopt rules, under RSA 541-A, relative to the procedures for approval of
7 institutions for veterans' education and benefits.

8 282-A:190 Use of Fees. Notwithstanding any provision of law to the contrary, all license fees
9 collected under the provisions of this subdivision shall be deposited in the career school licensing
10 fund established in this subdivision for use in meeting the expenses of administering this
11 subdivision.

12 282-A:191 Penalty.

13 I. Whoever violates any provision of this subdivision shall be guilty of a misdemeanor if a
14 natural person, or guilty of a felony if any other person.

15 II. Whenever the commission determines that a person is violating any provision of this
16 subdivision or the rules adopted hereunder, the commission shall request the attorney general, or
17 other appropriate official having jurisdiction, to provide appropriate relief.

18 III. The commission, upon verifying that a career school is operating without a license, shall
19 issue a cease and desist order to such school.

20 IV. The commission shall be notified whenever a cease and desist order is issued to a career
21 school, or if a career school fails to provide the services required under a contract with any entity
22 causing the bond to be forfeited, or if a career school is required to have a license but is operating
23 without a license.

24 282-A:192 Career School Licensing Fund Established. There is established in the department of
25 employment security a nonlapsing fund to be known as the career school licensing fund to be
26 administered by the commission, which shall be kept distinct and separate from all other funds. All
27 moneys in the fund shall be continually appropriated to the commission for the purpose of
28 administering this subdivision. The commission shall deposit all fees and fines collected pursuant to
29 this subdivision into this fund.

30 2 Application of Receipts; Career School Licensing Fund. RSA 6:12, I(b)(228) is repealed and
31 reenacted to read as follows:

32 (228) Fees collected by the career school commission pursuant to RSA 282-A:192.

33 3 New Hampshire Workforce Opportunity Council; Membership. Amend RSA 12-A:60, II to
34 read as follows:

35 II. Membership of the council shall be as set forth in section 111(b) of the Workforce
36 Investment Act of 1998, Public Law 105-220, codified at 29 U.S.C. section 2801 et seq., as such may
37 be amended, reauthorized, and in effect from time to time. *There shall be 2 additional members:*

1 *one member to be appointed by the governor and council on recommendation by the*
2 *New Hampshire Council for Professional Education, who shall be a resident of the state*
3 *and an owner or director of a career school, and the executive director of the*
4 *New Hampshire Council for Professional Education.* Members of the council [~~shall be~~]
5 appointed by the governor [~~and~~] shall serve at the pleasure of the governor. The governor shall
6 select a chairperson for the council from among the members of the council, in accordance with 29
7 U.S.C. section 2821(c).

8 4 Student Tuition Guaranty Fund; Disbursement of Funds. The higher education commission
9 established in RSA 21-N:8-a shall refund the balance of funds in the student tuition guaranty fund
10 established in the former RSA 188-G:4 as of the effective date of this act, less interest, to the schools
11 which were responsible for contributing such funds. The higher education commission shall disburse
12 any interest on such funds calculated as of the effective date of this act to the third party
13 administrator as defined in RSA 282-A:182, I(g) as inserted by section 1 of this act, for the purpose of
14 establishing and administering the career school licensing procedure.

15 5 Repeal. The following are repealed:

16 I. RSA 21-N:8-a, II(e)(3), relative to duty of the higher education commission to regulate
17 private postsecondary career schools.

18 II. RSA 21-N:8-a, II(a)(9), relative to a member of the higher education commission who is a
19 representative of a private postsecondary career school.

20 III. RSA 21-N:8-a, II(e)(6)(C), relative to rulemaking authority of higher education
21 commission regarding private postsecondary career schools.

22 IV. RSA 188-G, relative to private postsecondary career schools.

23 V. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

24 6 Effective Date. This act shall take effect July 1, 2013.

LBAO
13-0299
01/22/13

SB 162-FN - FISCAL NOTE

AN ACT relative to licensing of postsecondary career schools.

FISCAL IMPACT:

Due to time constraints, the Office of Legislative Budget Assistant is unable to provide a fiscal note for this bill, as introduced, at this time. When completed, the fiscal note will be forwarded to the Senate Clerk's Office.

SB 162-FN - AS AMENDED BY THE SENATE

03/14/13 0737s

2013 SESSION

13-0299

04/03

SENATE BILL **162-FN**

AN ACT repealing the student tuition guaranty fund and making provisions for the disbursement of remaining funds, and relative to the membership of the higher education commission.

SPONSORS: Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill:

I. Repeals the student tuition guaranty fund and requires the higher education commission to disburse all remaining funds to the private postsecondary career school responsible for contributing the funds.

II. Adds an additional member to the higher education commission who represents the interests of private postsecondary career schools.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT repealing the student tuition guaranty fund and making provisions for the disbursement of remaining funds, and relative to the membership of the higher education commission.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Repeal. The following are repealed:

2 I. RSA 188-G:4, relative to student tuition guaranty fund.

3 II. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

4 2 Private Postsecondary Career Schools; Licenses and Fees. Amend RSA 188-G:2, V to read as follows:

5 V. A private postsecondary career school which the commission has determined requires a license shall, prior to the issuance of a license, comply with this section~~[,]~~ **and** RSA 188-G:3~~[, and RSA 188-G:4].~~

6 3 Private Postsecondary Career Schools; Surety Indemnification. Amend the introductory paragraph in RSA 188-G:3 to read as follows:

7 188-G:3 Surety Indemnification. Before a license is issued or renewed, a school shall ~~[meet the requirements of this section or RSA 188-G:4, by providing acceptable surety indemnification as determined]~~ **furnish surety indemnification as required** in this section.

8 4 Student Tuition Guaranty Fund; Disbursement of Funds. The higher education commission established in RSA 21-N:8-a shall refund the balance of funds, less interest, in the student tuition guaranty fund established in RSA 188-G:4 as of the effective date of this act to the schools which were responsible for contributing such funds. The commission shall deposit any interest on such funds into the general fund.

9 5 Division of Higher Education; Higher Education Commission; Membership. Amend RSA 21-N:8-a, II(a)(9) to read as follows:

10 (9) ~~[One member]~~ **Two members** to be appointed by the governor and council, on recommendation by the New Hampshire Council for Professional Education, who shall be ~~[a resident]~~ **residents** of the state and ~~[a representative of a]~~ **shall represent** private postsecondary career ~~[school]~~ **schools**.

11 6 Effective Date. This act shall take effect June 30, 2013.

SB 162 FISCAL NOTE

AN ACT repealing the student tuition guaranty fund and making provisions for the disbursement of remaining funds, and relative to the membership of the higher education commission.

FISCAL IMPACT:

The Department of Education states this bill, as amended by the Senate (Amendment #2013-0737s), will decrease state restricted revenues by \$40,000 in FY 2014 and each fiscal year thereafter, increase state general fund revenue by an indeterminable amount in FY 2014, and increase state restricted expenditures by \$370,000 in FY 2014. There will be no fiscal impact on county and local revenues or expenditures.

METHODOLOGY:

The Department of Education states this bill repeals the Department's authority to assess annual fees designated to fund the student tuition guaranty fund, eliminates the fund and makes provisions for the disbursement of the remaining funds. The Department states the student tuition guaranty fund currently holds a balance of approximately \$370,000 and receives approximately \$40,000 in annual restricted revenues derived from assessments made to career schools operating in the state. The Department states the proposed legislation's repeal of the Department's authority for the assessments will decrease state restricted revenues by approximately \$40,000 in FY 2014 and each fiscal year thereafter. The Department states the proposed legislation's provision to refund the balance of funds held in the student tuition guaranty fund to the schools responsible for contributing such funds will increase state restricted expenditures by \$370,000 in FY 2014. The Department also notes the proposed legislation designates interest earned on assessments held in the fund to be deposited into the state's general fund thereby increasing general fund revenue in FY 2014. However, the Department has not estimated what portion of the fund balance represents interest earned on assessments.

CHAPTER 187
SB 162-FN - FINAL VERSION

03/14/13 0737s
8May2013... 1401h

2013 SESSION

13-0299
04/03

SENATE BILL **162-FN**

AN ACT repealing the student tuition guaranty fund and making provisions for the disbursement of remaining funds.

SPONSORS: Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

COMMITTEE: Health, Education and Human Services

AMENDED ANALYSIS

This bill repeals the student tuition guaranty fund and requires the higher education commission to disburse all remaining funds to the private postsecondary career school responsible for contributing the funds.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
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CHAPTER 187
SB 162-FN - FINAL VERSION

03/14/13 0737s
8May2013... 1401h

13-0299
04/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT repealing the student tuition guaranty fund and making provisions for the
 disbursement of remaining funds.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 187:1 Repeal. The following are repealed:

2 I. RSA 188-G:4, relative to student tuition guaranty fund.

3 II. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

4 187:2 Private Postsecondary Career Schools; Licenses and Fees. Amend RSA 188-G:2, V to read
5 as follows:

6 V. A private postsecondary career school which the commission has determined requires a
7 license shall, prior to the issuance of a license, comply with this section[,] **and** RSA 188-G:3[~~and~~
8 ~~RSA 188-G:4~~].

9 187:3 Private Postsecondary Career Schools; Surety Indemnification. Amend the introductory
10 paragraph in RSA 188-G:3 to read as follows:

11 188-G:3 Surety Indemnification. Before a license is issued or renewed, a school shall [~~meet the~~
12 ~~requirements of this section or RSA 188-G:4, by providing acceptable surety indemnification as~~
13 ~~determined~~] **furnish surety indemnification as required** in this section.

14 187:4 Student Tuition Guaranty Fund; Disbursement of Funds. The higher education
15 commission established in RSA 21-N:8-a shall refund the balance of funds, less interest, in the
16 student tuition guaranty fund established in RSA 188-G:4 as of the effective date of this act to the
17 schools which were responsible for contributing such funds. The commission shall deposit any
18 interest on such funds into the general fund.

19 187:5 Effective Date. This act shall take effect June 30, 2013.

20

21 Approved: July 2, 2013

22 Effective Date: June 30, 2013

Amendments

Amendment to SB 162-FN

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Subdivision; Career School Licensing. Amend RSA 282-A by inserting after section 180
4 the following new subdivision:

5 Career School Licensing

6 282-A:181 Applicability. The department of employment security, career school commission
7 shall administer and regulate the licensing of career schools as provided in this subdivision.

8 282-A:182 Definitions; Exclusions.

9 I. In this subdivision:

10 (a) "Alternative delivery" means a mode of instruction which does not involve face-to-
11 face instruction between instructor and student in the same geographic location. This mode of
12 instruction shall include Internet, televised, video, telephonic, and correspondence media.

13 (b) "Career school" means any for-profit or nonprofit postsecondary career entity
14 maintaining a physical presence in this state providing education or training for tuition or a fee that
15 enhances a person's occupational skills, or provides continuing education or certification, or fulfills a
16 training or education requirement in one's employment, career, trade, profession, or occupation.
17 Schools that offer resident or nonresident programs, including programs using modes of alternative
18 delivery, beyond the secondary school level to an entity shall be included in this definition regardless
19 of the fact that the school's tuition and fees from education and training programs constitute only a
20 part of the school's revenue.

21 (c) "Commission" means the career school commission as established in RSA 282-A:183.

22 (d) "Commissioner" means the commissioner of the department of employment security.

23 (e) "Conference" or "seminar" means a scheduled meeting of 2 or more persons for
24 discussing matters of common concern and where, if training or education is offered, it shall be
25 incidental to the purpose of the conference.

26 (f) "Entity" means any individual, firm, partnership, association, corporation,
27 organization, trust, school, or other legal entity or combination of these entities.

28 (g) "Physical presence" means any physical location, place of contact, telephone
29 exchange, or mail drop in this state, and if an individual is conducting one or more of the following
30 activities within this state:

31 (1) Advising.

32 (2) Mentoring.

1 (3) Supervising.

2 (4) Testing.

3 (5) Instructing.

4 (h) "Third party administration" means any entity which may be selected through a
5 competitive bidding process conducted by the commission for the purpose of administering some or
6 all of the career school licensing process pursuant to this subdivision on behalf of the state.

7 (i) "Vendor" means an entity that promotes or exchanges goods or services for money.

8 (j) "Workshop" means a brief, intensive education or training program that focuses on
9 developing techniques and skills in a particular area.

10 II. In this subdivision, "career school" shall not include:

11 (a) Schools authorized to grant degrees pursuant to RSA 292.

12 (b) Schools specifically licensed as an education or training school by a state agency
13 other than the commission.

14 (c) Schools operated by a business organization exclusively for the training of that
15 business' own employees and at no charge to its employees.

16 (d) Schools offering noncredit courses exclusively for avocational purposes.

17 (e) Schools established, operated, and governed by the state of New Hampshire or any of
18 its political subdivisions, or any other state or its political subdivisions.

19 (f) Noncredit courses or programs sponsored by recognized trade, business, or
20 professional organizations solely for the instruction of their members that do not prepare or qualify
21 individuals for employment in any occupation or trade.

22 (g) Schools that offer programs and courses exclusively on federal military installations.

23 (h) Companies, individuals, or other legal entities that offer training at seminars,
24 workshops, or conferences, if:

25 (1) Any training or education offered is incidental to the purpose of the seminar,
26 workshop, or conference; and

27 (2) The attendee receiving the training is not awarded any form of a certificate,
28 diploma, or credit including continuing education units for having received the training.

29 (i) Vendors that offer incidental training associated with the purchase of a product from
30 said vendor, if the training is at no cost, its purpose is to familiarize the purchaser with the product's
31 use and the purchaser is not awarded any form of a certificate or diploma for having received the
32 training.

33 (j) An individual or facility training students under 14 C.F.R. part 91 or 14 C.F.R. part
34 141, or receiving flight or ground instruction required by the Federal Aviation Administration.

35 (k) Computer technology vendors that offer fee-based training on courses of instruction
36 in the use of hardware or software if the course is offered to purchasers of such hardware or
37 software, or to the purchaser's employees, by a person who manufactures and sells, develops and

Amendment to SB 162-FN

- Page 3 -

1 sells, or supports the hardware or software, and if the seller is not primarily engaged in the business
2 of providing courses of instruction in the use of the hardware or software.

3 (l) Entities that license software, the content of which is focused on training or
4 education, if the entity:

5 (1) Is primarily engaged in the business of licensing software;

6 (2) Licenses its software primarily to other legal entities, and not directly to an end
7 user or individual student;

8 (3) Does not confer degrees, diplomas, continuing education units, or any other form
9 of credit in connection with the software that it licenses;

10 (4) Is not accredited and does not seek accreditation in connection with the software
11 that it licenses or the content it offers; and

12 (5) Does not offer an admissions process, financial aid, career advice, or job
13 placement in connection with the software that it licenses.

14 282-A:183 Career School Commission.

15 I. There is established the career school commission in the department of employment
16 security. The commission shall consist of the following members:

17 (a) One owner or director of a career school, appointed by the governor and council.

18 (b) One employer who currently utilizes at least one graduate of a career school,
19 appointed by the governor and council.

20 (c) Two public members, appointed by the governor and council.

21 (d) One member recommended by the New Hampshire Council for Professional
22 Education, appointed by the governor and council.

23 II. The commission shall elect a chairperson from its membership, and any other officers it
24 deems necessary. The terms of the appointed members shall be 4 years. In the event of a vacancy, a new
25 member shall be appointed for the unexpired term in the same manner as the original appointment. The
26 members of the commission, shall serve without compensation, but may be reimbursed for actual travel
27 and other expenses incurred in the performance of their duties on the commission from career school
28 funds appropriated to the department of employment security specifically for this purpose.

29 III. The commission shall:

30 (a) Adopt rules pursuant to RSA 541-A for career school licensing.

31 (b) Administer the career school licensing process pursuant to this subdivision.

32 (c) Annually review and approve all license fees and fines to be imposed, provided that
33 the fees and fines shall be sufficient to produce estimated revenues equal to 120 percent of the direct
34 operating expenses of the commission for the previous fiscal year.

35 (d) Hear appeals related to this subdivision.

36 (e) Preserve records from closed career schools and upon request of a former student,
37 furnish a certified copy of the student's record.

1 282-A:184 Licenses and Fees.

2 I. Prior to registering or renewing a business or trade name, or soliciting students for
3 enrollment, an entity maintaining a physical presence in this state shall be reviewed to determine if
4 the entity requires a license. The commission shall establish procedures to accomplish this review.

5 II. A career school shall apply to obtain a license or license renewal from the commission.
6 The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the
7 commission. The rules shall establish minimum criteria, including but not limited to, financial
8 stability, educational program, administrative and staff qualifications, business procedures,
9 facilities, equipment, closings, and ethical practices to be met by licensees, criteria for rejecting a
10 licensing applicant, including an administrative hearings process for rejected applicants, and a
11 procedure for suspending or revoking a license.

12 III. An entity that is not required to obtain a license may apply for a license and, upon
13 issuance of the license, shall be subject to the provisions of this subdivision. Such entity may
14 voluntarily surrender its license and revert to its original status.

15 IV. The commission shall adopt rules pursuant to RSA 541-A to establish reasonable fees
16 and fines which are necessary for the administration of this subdivision.

17 V. An entity which requires a career school license shall, prior to the issuance of a license,
18 comply with the provisions of this subdivision.

19 282-A:185 Surety Indemnification. Before a license is issued or renewed, a career school shall
20 meet the requirements of this subdivision by providing acceptable surety indemnification as
21 determined in this section.

22 I. A surety bond shall be provided by the career school in an amount prescribed in this section.
23 The obligation of the bond is that the school, its officers, agents, and employees shall faithfully perform
24 the terms and conditions of contracts for tuition and other instructional fees entered into between the
25 career school and entity enrolling as students. The bond shall be issued by a company authorized to do
26 business in the state of New Hampshire. The bond shall be issued in the name of the commission, and
27 is to be used only for payment of a refund of tuition and instructional fees due to a student or potential
28 student, and the expense of investigating and processing the claims.

29 II. The amount of such bond shall be based on income from tuition at 10 percent of gross
30 tuition, with a \$10,000 minimum.

31 III. The bond company may not be relieved of liability on the bond unless it gives the career
32 school and the commission 90 days written notice of the company's intent to cancel the bond. If at
33 any time the company that issued the bond cancels or discontinues the coverage, the career school's
34 license is revoked as a matter of law on the effective date of the cancellation or discontinuance of
35 bond coverage, unless a replacement bond is obtained and provided to the commission.

36 IV. Indemnification may be provided by an irrevocable letter of credit based on income from
37 tuition in the amount of 10 percent of gross tuition, with a minimum of \$10,000.

Amendment to SB 162-FN

- Page 5 -

1 282-A:186 Inspections. The commission may at any time inspect the premises, curriculum,
2 teaching materials, faculty performance, sales literature, financial data, or other matters which are
3 relevant to the educational and business activities of a licensed career school in order to determine
4 compliance with applicable laws and rules.

5 282-A:187 Revocation; Hearing. The commission may, after due notice and hearing, revoke the
6 license of any career school licensed pursuant to this subdivision for violating the provisions of this
7 subdivision or rules adopted hereunder. The provisions of RSA 541 shall apply to actions taken
8 pursuant to this section.

9 282-A:188 Waiting Period. Every contract that purports to bind any entity to pay money to a
10 career school in return for training shall be construed to be a home solicitation sales contract under
11 RSA 361-B and shall be subject to the provisions of RSA 361-B.

12 282-A:189 Use of Fees. Notwithstanding any provision of law to the contrary, all license fees
13 and fines collected under the provisions of this subdivision shall be deposited in the career school
14 licensing fund established in this subdivision for use in meeting the expenses of administering this
15 subdivision.

16 282-A:190 Penalty.

17 I. Whoever violates any provision of this subdivision shall be guilty of a misdemeanor if a
18 natural person, or guilty of a felony if any other person.

19 II. Whenever the commission determines that a person is violating any provision of this
20 subdivision or the rules adopted hereunder, the commission shall request the attorney general, or
21 other appropriate official having jurisdiction, to provide appropriate relief.

22 III. The commission, upon verifying that a career school is operating without a license, shall
23 issue a cease and desist order to such school.

24 IV. The commission shall be notified whenever a cease and desist order is issued to a career
25 school, or if a career school fails to provide the services required under a contract with any entity
26 causing the bond to be forfeited, or if a career school is required to have a license but is operating
27 without a license.

28 282-A:191 Career School Licensing Fund Established. There is established in the department of
29 employment security a nonlapsing fund to be known as the career school licensing fund to be
30 administered by the commission, which shall be kept distinct and separate from all other funds. All
31 moneys in the fund shall be continually appropriated to the commission for the purpose of
32 administering this subdivision. The commission shall deposit all fees and fines collected pursuant to
33 this subdivision into this fund.

34 2 Application of Receipts; Career School Licensing Fund. RSA 6:12, I(b)(228) is repealed and
35 reenacted to read as follows:

36 (228) Fees collected by the career school commission pursuant and deposited into the
37 career school licensing fund established in RSA 282-A:191.

Amendment to SB 162-FN

- Page 6 -

1 3 New Hampshire Workforce Opportunity Council; Membership. Amend RSA 12-A:60, II to
2 read as follows:

3 II. Membership of the council shall be as set forth in section 111(b) of the Workforce
4 Investment Act of 1998, Public Law 105-220, codified at 29 U.S.C. section 2801 et seq., as such may
5 be amended, reauthorized, and in effect from time to time. *There shall be 2 additional members:*
6 *one member to be appointed by the governor and council on recommendation by the*
7 *New Hampshire Council for Professional Education, who shall be a resident of the state*
8 *and an owner or director of a career school, and the executive director of the*
9 *New Hampshire Council for Professional Education.* Members of the council [~~shall be~~]
10 appointed by the governor [~~and~~] shall serve at the pleasure of the governor. The governor shall
11 select a chairperson for the council from among the members of the council, in accordance with 29
12 U.S.C. section 2821(c).

13 4 Student Tuition Guaranty Fund; Disbursement of Funds. The career school commission,
14 established in RSA 282-A:183, shall adopt rules pursuant to RSA 541-A relative to the disbursement
15 of funds remaining in the student tuition guaranty fund established in the former RSA 188-G:4.

16 5 Repeal. The following are repealed:

17 I. RSA 21-N:8-a, II(e)(3), relative to duty of the higher education commission to regulate
18 private postsecondary career schools.

19 II. RSA 21-N:8-a, II(a)(9), relative to a member of the higher education commission who is a
20 representative of a private postsecondary career school.

21 III. RSA 21-N:8-a, II(e)(6)(C), relative to rulemaking authority of higher education
22 commission regarding private postsecondary career schools.

23 IV. RSA 188-G, relative to private postsecondary career schools.

24 V. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

25 6 Effective Date. This act shall take effect July 1, 2013.



Amendment to SB 162-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT repealing the student tuition guaranty fund and making provisions for the
4 disbursement of remaining funds, and relative to the membership of the higher
5 education commission.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Repeal. The following are repealed:

10 I. RSA 188-G:4, relative to student tuition guaranty fund.

11 II. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

12 2 Private Postsecondary Career Schools; Licenses and Fees. Amend RSA 188-G:2, V to read as
13 follows:

14 V. A private postsecondary career school which the commission has determined requires a
15 license shall, prior to the issuance of a license, comply with this section[,] *and* RSA 188-G:3[~~and~~
16 ~~RSA 188-G:4~~].

17 3 Private Postsecondary Career Schools; Surety Indemnification. Amend the introductory
18 paragraph in RSA 188-G:3 to read as follows:

19 188-G:3 Surety Indemnification. Before a license is issued or renewed, a school shall [~~meet the~~
20 ~~requirements of this section or RSA 188-G:4, by providing acceptable surety indemnification as~~
21 ~~determined~~] *furnish surety indemnification as required* in this section.

22 4 Student Tuition Guaranty Fund; Disbursement of Funds. The higher education commission
23 established in RSA 21-N:8-a shall refund the balance of funds, less interest, in the student tuition
24 guaranty fund established in RSA 188-G:4 as of the effective date of this act to the schools which
25 were responsible for contributing such funds. The commission shall deposit any interest on such
26 funds into the general fund.

27 5 Division of Higher Education; Higher Education Commission; Membership. Amend RSA 21-
28 N:8-a, II(a)(9) to read as follows:

29 (9) [~~One member~~] *Two members* to be appointed by the governor and council, on
30 recommendation by the New Hampshire Council for Professional Education, who shall be [~~a~~
31 ~~resident~~] *residents* of the state and [~~a representative of a~~] *shall represent* private postsecondary
32 career [~~school~~] *schools*.

33 6 Effective Date. This act shall take effect June 30, 2013.



2013-0512s

AMENDED ANALYSIS

This bill:

I. Repeals the student tuition guaranty fund and requires the higher education commission to disburse all remaining funds to the private postsecondary career school responsible for contributing the funds.

II. Adds an additional member to the higher education commission who represents the interests of private postsecondary career schools.



Amendment to SB 162-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT repealing the student tuition guaranty fund and making provisions for the
4 disbursement of remaining funds, and relative to the membership of the higher
5 education commission.
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 Repeal. The following are repealed:

10 I. RSA 188-G:4, relative to student tuition guaranty fund.

11 II. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

12 2 Private Postsecondary Career Schools; Licenses and Fees. Amend RSA 188-G:2, V to read as
13 follows:

14 V. A private postsecondary career school which the commission has determined requires a
15 license shall, prior to the issuance of a license, comply with this section[.] *and* RSA 188-G:3[~~and~~
16 ~~RSA 188-G:4~~].

17 3 Private Postsecondary Career Schools; Surety Indemnification. Amend the introductory
18 paragraph in RSA 188-G:3 to read as follows:

19 188-G:3 Surety Indemnification. Before a license is issued or renewed, a school shall [~~meet the~~
20 ~~requirements of this section or RSA 188-G:4, by providing acceptable surety indemnification as~~
21 ~~determined~~] *furnish surety indemnification as required* in this section.

22 4 Student Tuition Guaranty Fund; Disbursement of Funds. The higher education commission
23 established in RSA 21-N:8-a shall refund the balance of funds, less interest, in the student tuition
24 guaranty fund established in RSA 188-G:4 as of the effective date of this act to the schools which
25 were responsible for contributing such funds. The commission shall deposit any interest on such
26 funds into the general fund.

27 5 Division of Higher Education; Higher Education Commission; Membership. Amend RSA 21-
28 N:8-a, II(a)(9) to read as follows:

29 (9) [~~One member~~] *Two members* to be appointed by the governor and council, on
30 recommendation by the New Hampshire Council for Professional Education, who shall be [~~a~~
31 ~~resident~~] *residents* of the state and [~~a representative of a~~] *shall represent* private postsecondary
32 career [~~school~~] *schools*.

33 6 Effective Date. This act shall take effect June 30, 2013.



2013-0737s

AMENDED ANALYSIS

This bill:

I. Repeals the student tuition guaranty fund and requires the higher education commission to disburse all remaining funds to the private postsecondary career school responsible for contributing the funds.

II. Adds an additional member to the higher education commission who represents the interests of private postsecondary career schools.

Committee Minutes

SENATE CALENDAR NOTICE
HEALTH, EDUCATION & HUMAN SERVICES

Senator Nancy Stiles Chairman
Senator John Reagan V Chairman
Senator Peggy Gilmour
Senator Molly Kelly
Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: February 6, 2013

HEARINGS

Tuesday

2/12/2013

HEALTH, EDUCATION & HUMAN SERVICES

LOB 103

11:30 AM

(Name of Committee)

(Time)

(Place)

EXECUTIVE SESSION MAY FOLLOW

11:30 AM SB162-FN

relative to licensing of postsecondary career schools.

Sponsors:

SB162-FN

Sen. Nancy Stiles

Sen. Lou D'Allesandro

Rep. Patricia Lovejoy

Rep. Patrick Abrami

Rep. Timothy Copeland

Rep. Barbara Shaw

Sen. Jeb Bradley

Rep. Rick Ladd

HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE

Hearing Report

Michael Ciccio, Legislative Aide

SB 162-FN -- relative to licensing of postsecondary career schools.

Hearing Date: 02/12/13

Time Opened: 11:30

Time Closed: 12:35

Members of the Committee Present: Senators Stiles, Reagan, Kelly, Gilmour, and Sanborn

Bill Analysis: This bill moves the licensing and regulation of career schools from the department of education to the department of employment security under the direction of the career school commission.

Sponsors: Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

Who supports the bill: Senator Stiles, Dr. Gustafson, and Marie Bailinson

Who opposes the bill: Kelly Michaud, Vicki Jones, Kathy Moriarty, Carl Brennan, Marc Morin, Matt Ensign, Donald Patch, Debra Adams, and Johnna Grzywacy

Summary of testimony presented in support:

Senator Stiles

- Career schools do not award degrees, but they award certificates of accomplishment. Career schools are more closely related to our business communities by often offering training and short certificate programs to meet business needs.
- She met over the summer with the Career School Association who said they are often not given the attention that is necessary and there are often difficulties in the application and approval process. Commissioner Barry agreed the Department Employment Securities would be an appropriate place for career schools.
- Dr. Gustafson, Commissioner Copadis, Councilor Sununu, and the Career School Association met to discuss how the transition could take place and ensure that it was done smoothly.

Dr. Gustafson

- There are between 80-90 career schools in the state and they serve 25,000 students. Their revenues are around 20 million dollars.
- The amendment achieves the goals and outcomes of interest to the career school community. The bill would remove the licensure from the DOE and would give it to the DES. The legislation establishes a career school commission of 5 members appointed by the Governor and the Executive Council.

- The commission would have the authority to establish bi-laws, develop rules, set licensure fees, hear appeals, and maintain records when career schools close. The career school commission would have the ability to write the administrative rules.
- The legislation also abolishes the tuition guarantee fund.
- In response to questions of the committee, Dr. Gustafson said from time to time these small operations leave. We license barber schools, cosmetology, and other entities in the state; regulating them is a consumer protection and licensure is a State function. There was a school in the southern part of the State that just left and the students had invested \$40,000 in their training up to that point. We then worked with one of the community colleges to make sure the students were taught out.

Marie Bailinson: DES

- Supports the bill on the contingency that the staff will transfer to DES in order to aid in setting up the new commission. The higher education commission determined that two staff members would be needed for the career school commission.
- In the legislation as currently written the career school commission would have the rulemaking authority over the licensure, would renew licenses, and establish fees and fines. The department suggests having the rulemaking authority remain part of DES.

Summary of testimony presented in opposition: below is a summary of the testimony presented by Kelly Michaud (Intercoast Career Institute), Carl Brennan (John Mason Institute) Marc Morin (John Mason Institute), Donald Patch (John Mason Institute), Debra Adams (Self), Johnna Grzywacy (Self), and Dianna Owen (Adult Learning Center)

- Career Schools provide education and the US DOE recognizes many of them for Title IV funding. Many of the career schools have financial aid available to their students.
- The career school association does not represent the vast majority of career school owners in NH. They have chosen not join Peter Koch's group. Less than 1/3rd of the career schools are a part of NHCPE. Many of the career schools were unaware that this legislation was being proposed. Even career schools that are part of NHCPE were unaware of this proposed legislation. NHCPE does not even have the information on their website about this legislation.
- It may be possible that the career schools may need more representation on the Higher Education Commission, but the administrative process operates very well with the Department of Education.
- There is legitimacy of being part of the DOE. The DOE has an agenda of educational standards, while that is not the mindset of DES. It would be best to stay under the DOE because they run schools and by definition the career schools are providing education.
- Career school licensing has gone through different agencies over the years, but currently they are in the best spot with Dr. Gustafson. He is working with integrity and there are no favoritisms. Dr. Gustafson works hard to make sure that the standards improve year to year.

- The career schools direct competition would be the one's sitting on the commission. One member of the commission would be a career school owner or director (competition). One member would be from NHCPE (competition). Ultimately, their competition would be in charge of their licensure. The competition would have access to their files, coursework, and customer lists. There would be no checks and balances under the commission and this could lead to fraud and abuse. They would be bidding constantly against the members who would sit on the commission.
- The NHCPE has licensing fees from \$300-\$2,000 dollars to be part of their organization. Career schools who have decided not join did so because they felt the fees would be too much and their organization was too small.
- DES is already overwhelmed and they do not have the staff necessary to take on the career schools.

Funding: See Fiscal Note

Action: The Committee recessed the hearing until 02.19.13

MJC

Date hearing report completed: 02.14.13

**SENATE CALENDAR NOTICE
HEALTH, EDUCATION & HUMAN SERVICES**

Senator Nancy Stiles Chairman
 Senator John Reagan V Chairman
 Senator Peggy Gilmour
 Senator Molly Kelly
 Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: February 13, 2013

HEARINGS

Tuesday

2/19/2013

HEALTH, EDUCATION & HUMAN SERVICES

LOB 103

9:00 AM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

9:00 AM	SB162-FN	relative to licensing of postsecondary career schools.
9:30 AM	SB87	relative to the patients' bill of rights.
10:00 AM	SB193-FN	relative to dental therapists and access to oral health care.

Sponsors:

SB162-FN

Sen. Nancy Stiles
 Sen. Lou D'Allesandro

Rep. Patricia Lovejoy
 Rep. Patrick Abrami

Rep. Timothy Copeland
 Rep. Barbara Shaw

Sen. Jeb Bradley
 Rep. Rick Ladd

SB87

Sen. Peggy Gilmour
 Sen. Bob Odell

Sen. John Reagan

Rep. Mary Nelson

Sen. Donna Soucy

SB193-FN

Sen. Peggy Gilmour
 Rep. Mary Nelson

Sen. Jeff Woodburn
 Sen. John Reagan

Sen. Lou D'Allesandro
 Rep. Susan Emerson

Rep. Cindy Rosenwald

HEALTH, EDUCATION, AND HUMAN SERVICES COMMITTEE

Hearing Report

Michael Ciccio, Legislative Aide

SB 162-FN -- relative to licensing of postsecondary career schools.

Hearing Date: 02/19/13

Time Opened: 9:00

Time Closed: 9:30

Members of the Committee Present: Senators Stiles, Reagan, Kelly, and Gilmour.

Members of the Committee Absent: Senator Sanborn

Bill Analysis: This bill moves the licensing and regulation of career schools from the department of education to the department of employment security under the direction of the career school commission.

Sponsors: Sen. Stiles, Dist 24; Sen. Bradley, Dist 3; Sen. D'Allesandro, Dist 20; Rep. Lovejoy, Rock 36; Rep. Copeland, Rock 19; Rep. Abrami, Rock 19; Rep. Shaw, Hills 16; Rep. Ladd, Graf 4

Who supports the bill: Peter Koch, Gretchen Whas, Shelly Ling, Steve Appleby, and Mark Harwood

Who opposes the bill: Kelly Michaud, Jessica Principe, Johnna Grzywacz, Donald Patch, and Carl Brennan

Summary of testimony presented in support:

Peter Koch: NHCPE executive director

- NHCPE asked for the legislation.
- There are over 100 career schools in NH with 60 training programs.
- These schools trained over 40,000 students in 2011. The schools have 1,000 employees. They created 58 million dollars in taxable revenue income. Their job placement rate is over 70 percent.
- Career school licensing was originally administered under the post secondary education commission. That was eliminated and placed under the higher education commission; subsequently career school licensing was placed under the DOE career technical division which is focused on K-12 education. The career schools train adults-not children.
- There have been 4 administrators heading the career school licensing office over the last 18 months. This reflects a lack of concern of the career school interest. It has also resulted in delays for licensing.
- The career school rules are over 32 pages long. The rules do not need to be that complex and could be simplified. If the legislation is passed they will work with a new career school commission in revising the rules so they are more appropriate.
- They provide training for jobs and DES is concerned with getting people jobs.

- Creating a career school commission would enhance their visibility and give them credibility. The commission will be able to publish outcomes data which would be able to show the percentage of students completing programs, percentage of students retained, and number of students who got jobs. Currently, this is not done today.
- This legislation would also eliminate the tuition guarantee fund. Currently, there is no legal way to dispense the fund. They think it is better to put up a bond or credit. This would return money back to those who put the money in the fund.
- This legislation would move towards the job agenda vs. the education agenda. Career schools cost less money, take less time, and have a better placement record for students.
- 40% of the career schools are part of NHCPE and they make up 60% of the enrollment.

Steve Appleby:

- He has been the career school representative on the higher education commission.
- They seek to move licensure from the DOE to DES to align with job creation and employment issues. They also seek eliminate the tuition guarantee fund.
- Mr. Appleby explained the shift of the licensing process has gone from a simple one page form and \$250 dollar fee to a multi page form and thousands of dollars. He also had to pay into a tuition guarantee fund and had to get a larger bond.
- The tuition guarantee fund has sat there taking in money every year. There is no mechanism to pay out of the fund. There is no mechanism to rebuild the fund if it had be used.
- Most of the issues are process issues that will be dealt within the rules if the legislation is passed.
- Moving into DES will raise the stature of the career schools.
- All of the largest career schools support this move.
- In response to questions of the committee, Mr. Appleby said the bonding rates vary from 5-20 cents on the dollar. Typically they are 10 cents on the dollar and the coverage is normally 10 percent of the gross tuition.

Summary of testimony presented in opposition:

Johnna Gryzwacz

- Career training schools are educational facilities and therefore should stay under post secondary.
- No safeguards would exist. Those named on the commission could have access to private information.

Donald Patch:

- There is no plan behind the legislation. We are just putting another layer that can't be controlled.
- There will be a third party and it doesn't say who it will be. How will it be decided? The bill doesn't say who will be in charge.
- No one talks to us about what we think should happen with our own schools.

Carl Brennan: John Mason Institute

- Two or three school owners would serve on the committee to oversee us.
- He passed out a checklist that of information that the commission would have access to. This is not information he would not want in his competitions hands.

Action: The committee took the bill under advisement.

Fiscal Analysis: See Fiscal Note

MJC

Date hearing report completed: 02.21.13

Speakers

Testimony

NH Department of Education
Division of Higher Education- Higher Education Commission
Career School Licensing
101 Pleasant Street
Concord, N.H. 03301
(603) 271-6443
Fax (603) 271-1953

CHECKLIST FOR A CAREER SCHOOL LICENSE

Please note that this checklist is for reference only. Details of requirements are in the referenced N. H. code of Administrative Rules Pos 1100 as indicated on the items listed below.

School Name:
School Address:

Date:

ANNUAL GROSS TUITION

The amount of your school's annual gross tuition is \$ _____ for the

Fiscal Calendar year of _____ Actual Estimate

"Gross tuition" means the TOTAL amount collected by the school during its most recently completed fiscal year, net of refunds, for tuition, application fees, and registration fees. (Pos 1112.02 (f))

License Fee (Pos 1103.01 (e)) (check made payable to **Treasurer, State of NH**)
 New license Renewal license (See **Licensing Fee Worksheet**)
Amount: \$ _____

Student Tuition Guaranty Trust Fund fee (Pos 1112.02) (check made payable to **Treasurer, State of NH**) Amount: \$ _____ (See **Licensing Fee Worksheet**)

Application Form **PEC 1100-01** (enclosed)

ANNUAL GROSS TUITION less any corporate tuition income

The amount of your school's annual gross tuition [less any corporate income] is \$ _____ for the

Fiscal Calendar year of _____ Actual Estimate

Surety bond on form **PEC 1100-02** (enclosed) (Pos 1103.06) Amount of bond (10% of gross annual tuition): \$ _____

FINANCIAL STATEMENTS – reviewed or audited by a licensed certified public accountant or licensed public accountant. (Pos 1104.06 and 1104.07 and 1104.08)

- Income statement
- Balance sheet
- Statement of change in equity or fund balance
- Statement of cash flows
- Footnotes or notes to financial statements
- Cover letter prepared by licensed certified public accountant or licensed public accountant stating the scope of the review
- School management statement on fiscal position of school
- If the school is a subsidiary of an existing school or corporation, an audited certified financial statement of the parent school or corporation (Pos 1103.07(c))
- Previous fiscal year's actual operating budget
- Projected fiscal year's operating budget. (Pos 1103.03(c))

Note: If a school is not incorporated, then the school owner's federal income tax statements with all attachments will be accepted.

STUDENT LIST

- List the students that attended the school the previous year. (Pos 1104.10)
 - (1) Include student names, phone numbers, addresses, course/program enrolled, and identification of the certificate/diploma awarded, if applicable; and
 - (2) Be delivered on a CD-ROM in a format readable by Microsoft Word, Excel, or Access.

STATISTICAL DATA

- Statistical data relative to program evaluation (Pos 1103.03(g))

RESUME OF THE SCHOOL ADMINSTRATOR/DIRECTOR

- Per Pos 1103.05 (c)

OTHER DOCUMENTS REQUIRED

- Enrollment application and student agreement (contract forms) (Pos 1103.02(i)) with RSA 361-B inclusion: *"ANY BUYER MAY CANCEL THIS TRANSACTION ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION"* (per RSA 188-D:23) (Pos 1103.07(j) 1,2)
- Floor plan (Pos 1103.07(f))
- Description of equipment for school or classes (Pos 1103.02(k))
- Proposed staffing plan (Pos 1103.02 (l))
- List of programs (**PROGRAMS OFFERED FORM**) (Pos 1103.02(m))
- Indication of type of business, For-Profit Non-Profit (include copy of 501.C(3) for non-profit)
- Administrative responsibilities and concomitant authority specified along with organizational chart (Pos 1103.05(a))
- Person designated as administer of school, branch or extension (Pos 1103.02(d) and 1103.05(b))
- For each individual employed by the school as an instructor, the school shall submit a form **PEC 1100-04 (ENCLOSED)**(Pos 1103.07(k))
- A description of job placement program for graduates (Pos 1103.07(d))
- A description of lighting, heating and cooling for the occupied space (Pos 1103.07(g))
- Photocopies of inspection reports which show the building is safe and sanitary and meets all local, city, county, municipal, state and federal regulations. If inspection reports are not available, then a signed statement from the appropriate inspection agency (Pos 1103.07(h))
- If the building is not owned by the school, a photocopy of the lease held by the school for the space occupied (Pos 1103.07(i))
- Provide proof of liability insurance that protect the school's financial interest. (Pos 1104.08 (a))

SCHOOL CATALOG

- School catalog or bulletin in published form “certified as true and correct in content and policy” by an authorized official and including (Pos 1103.07):**
 - An identifying date
 - Name of the school and its governing body, officials and full time faculty
 - The school’s mission statement
 - School calendar showing legal holidays, beginning and ending date of each quarter, term or semester
 - Policy and regulations relative to:*
 - Class attendance
 - Enrollment with respect to enrollment dates and specific entrance requirements for each course
 - Standards of progress including grading system, minimum satisfactory grades, reentry criteria for students dismissed for unsatisfactory progress, probationary period if any, records maintained by the school and furnished to the student
 - Student conduct and conditions for dismissal for unsatisfactory conduct
 - Detailed schedule of all fees and charges
 - General description of available space, facilities and equipment
 - Course description for each course offered
 - Policy and regulations relative to granting credit for previous education and training
 - The school’s refund policy complying with (Pos 1111)
 - Graduation requirements
 - Complete detail of ownership
 - Number of clock hours for each subject offered and the minimum clock hours a student must carry for full time enrollment (Pos 1104.09(m))
 - Admission requirements (Pos 1104.01)

NOTES:

NOTE: We expect schools to develop a school catalog with the above information included. A school catalog sample can be e-mailed to you to use as template or can be found at www.education.nh.gov/highered/career/index.htm.

Student Tuition Guaranty Fund Interest

Date	Interest	Rate
July 31, 2008	\$306.92	2.09730%
August 31, 2008	\$319.23	2.13280%
September 30, 2008	\$321.05	2.12700%
October 31, 2008	\$211.22	1.39150%
November 30, 2008	\$146.84	0.94960%
December 31, 2008	\$151.64	0.96030%
January 31, 2009	\$47.29	0.29570%
February 28, 2009	\$102.52	0.63760%
March 31, 2009	\$103.10	0.64100%
April 30, 2009		0.00000%
May 31, 2009		0.00000%
June 30, 2009		0.00000%
July 31, 2009	\$77.00	0.00000%
August 31, 2009	\$72.24	0.38350%
September 30, 2009	\$64.65	0.34310%
October 31, 2009	\$67.01	0.35550%
November 30, 2009	\$60.56	0.32120%
December 31, 2009	\$58.24	
January 31, 2010	\$17.84	
February 29, 2010	\$47.70	
March 31, 2010	\$53.82	
April 30, 2010	\$44.05	
May 31, 2010	\$46.40	
June 30, 2010		
July 31, 2010	\$63.54	
August 31, 2010	\$65.65	
September 30, 2010	\$61.28	
October 31, 2010	\$61.51	
November 30, 2010	\$58.43	
December 31, 2010	\$62.27	
January 31, 2011	\$58.24	
February 28, 2011	\$120.70	
March 31, 2011	\$130.87	
April 30, 2011		
May 31, 2011		
June 30, 2011	\$162.59	

\$2,692.00

Thank you Madam Chair for the opportunity to testify - **Senate Bill 162.**

(Testimony on 2/12. Written testimony to Committee on 2/19)

My name is Johnna Grzywacz, Weare, NH and I speak in opposition to Senate Bill 162.

I urge the committee to find this bill as written inexpedient to legislate for the following reasons:

- Career Training schools are educational facilities thus should stay under the current responsibility of Post Secondary Education
- Post Secondary Education *wants* to keep oversight of career training programs
- No competitive safeguards would exist in a newly created Commission
- Those named to the Commission would have access to personal student and instructor information leaving privacy an issue
- With Post Secondary oversight potential employers can count on curriculum matching industry needs thus making it easier for students to secure jobs
- The goal is getting unemployed individuals trained and **back to work**, it is not about political wrangling.

Below is a personal experience reinforcing the reasons and need for Post Secondary to continue oversight:

“When asked to be an instructor for a New Hampshire based career training program I was swarmed by unemployed students asking for help. They were three-quarters of their way thru a training program. They had been issued vouchers worth \$5,000 - \$7,000 to spend on job training. The vouchers were issued by the Dept of Employment Security (thru the Workforce Investment Act) for this training program with the goal of landing gainful employment.

During interviews with potential employers they found that these employers would not recognize the coursework of the training program and in many cases these students lost chances for employment based on the disparity between coursework and industry expectation. Following my research I found the coursework to be truncated, possibly for the purpose of saving the proprietor money.

This segment of career school training in the above example is Medical Coding and Billing. I contacted Post Secondary with many concerns. They researched the industry standard and over time had training providers align their coursework to the expectations of hospitals, physicians, and clinics.

In 2008 three State Representatives sponsored HB 1211 on my behalf regarding the above issues and concerns. Those who came to testify in favor of HB 1211 included A Compliance

Officer from the Elliot Hospital, A Business Office Manager from a Surgical practice both indicating they would **NOT** hire individuals from “those” training programs to Code or Bill physician charges. Students also testified at the hearing.

Although HB1211 did not pass, over time the fraudulent advertising observed in local papers designed to lure those vouchers for the medical coding/billing programs eventually **STOPPED**. Post Secondary had a vital role in this positive outcome. They researched the industry standard and had Career Training Schools hold to those standards so folks would have a chance at landing jobs after training.

I spoke with Kim Kennally from Post Secondary on Feb 12, the first day of testimony for SB162. She indicated her preference to *“keep career training programs with Post-Secondary”*. She has evolved her department to work well with training programs while keeping coursework industry standard. She was and still is instrumental in raising the standards of training programs so the unemployed could, thru training, meet employer needs.”

I thank you for your time in reading my testimony and urge the committee to find this bill inexpedient to legislate.

Johnna Grzywacz,

Weare, New Hampshire

**TESTIMONY BEFORE THE SENATE HEALTH, EDUCATION AND HUMAN
SERVICES COMMITTEE**

**REGARDING SB 162
relative to licensing of postsecondary career schools**

Senator Stiles and members of the committee. My name is Peter Koch and I am the Executive Director of the New Hampshire Council for Professional Education. I have held top leadership roles at 4 career schools and now run the NHCPE, the professional association of New Hampshire career schools. Prior to this I spent 30 years in the private sector at Digital Equipment Corp and 10 years in government overseeing workforce development programs. I am able to speak to this legislation from both sides, the employer side and the career school side. I might add that I also have been a member of the adjunct business faculty at Northeastern University for the past 12 years.

Thank you for this opportunity today to testify in SUPPORT of SB 162.

I believe this legislation will enable the more than 100 career schools in New Hampshire to gain the recognition that they should have in providing the skills for workers that our employers are calling for now and in the years ahead and in an environment that serves the needs of these individuals better than any other traditional educational endeavor.

The career schools in New Hampshire trained over 40,000 individuals and generated over \$58 million in business revenue in 2011 and employed over 1000 full and part-time employees. These schools are an important sector for training many individuals who have lost their jobs and need to gain new skills or upgrade their current skills. The majority of individuals served by these schools are single women who are trying to improve their lives and those of their children. Most of these individuals did not attend college but went to work directly out of high school and typically into manufacturing or retail jobs. A significant number of our students are job changers who need new skills because the jobs they lost will no longer exist because of the changing economy. This is a segment of our population that our 2 and 4 year colleges do not serve well. Additionally, the majority of the individuals who attend career schools do not have the financial resources to attend a 2 or 4 year college and do not have the ability to obtain loans for college. Career schools provide an environment where students who have been out of high school for many years need an opportunity to learn in a supportive adult atmosphere that bolsters their self confidence. The traditional colleges are not set up to meet this need, career schools are. This is the area where career school excel. Classes are small and the faculty are truly committed to their students. Career schools require less time, cost significantly less than college and have a much better track record of job placement after program completion. Programs at the career schools range from 1-2 days to 18 months. Programs in New Hampshire are offered in over 60 different fields.

Responsibility for the licensing of career schools in New Hampshire, was originally the responsibility of the former Postsecondary Education Commission, then the Board of Higher Education and most recently with the K-12 career technical division within the Department of Education. Over the past 18 months there have been 4 administrators assigned to Career School licensing. This has led to some inconsistent interpretation of the rules, some unnecessarily bureaucratic delays in granting licenses and a lack of any leadership in the licensing office. This reflects the lack of urgency in dealing with career school issues within the Department of Education. This is NOT their primary mission. For these reasons, we believe that relocating the licensing of career schools to the Dept of Employment Security and establishing a Career School Commission will bring an appropriate focus on the issues that are most important to career schools and the residents and employers served. Locating Career School licensing in the Department of Employment Security will reinforce the connection between training and job placement. The goal of career schools is to provide skills for jobs. The job of the Employment Service is to help people obtain jobs. These two missions are compatible.

Assigning the licensing process to an organization with intimate knowledge of career schools, the types of student served by career schools and providing school performance information to potential students will serve the public much more effectively than under the current system. The proposed Career School Commission will be able to address career school issues with much more focus and provide a level of professionalism to this important segment of job training.

The law and rules governing the licensing of career schools were developed by the Postsecondary Education Commission, were fashioned after the requirements for colleges and universities and cover 32 pages of requirements. These rules are much more detailed and restrictive than is necessary for these relatively small training organizations. The proposed legislation and the future rules will reflect a much more appropriate set of requirements for the career schools and the training being offered.

There are fundamental differences in the licensing of career schools and the licensing and accreditation of colleges and universities. One important reason to locate career school licensing under the Dept of Employment Security is due to the key drivers of the training effort. The key factors for licensing and evaluating training programs and workforce development programs are based on outcomes, i.e. how many students get jobs in the fields in which they are trained. The key factors for licensing and accrediting colleges and universities are inputs, i.e. the SAT scores of the incoming students, the number of PhDs, the number of books in the library etc. Having the training programs governed by college and university rules is definite overkill

An important element for career school licensing in the future will be the collection and publishing of school performance data that will enable the prospective student to make informed choices about which school can meet their particular needs. This information can be presented in such a way as to protect the proprietary information of the school but provides the performance data for an informed decision. This will clearly set the career schools ahead of the traditional

colleges and universities which do not provide performance data to their prospective students i.e. percentage of students completing programs, the percentage of students who pass professional certifications and the percentage of students who obtain employment in the field in which they studied. These are important indicators of career school success. With this focus, New Hampshire will be breaking new ground.

An additional benefit to the state of New Hampshire in delegating career school licensing to the Career School Commission is that this will eliminate the cost of employee benefits and retirement benefits for two state employees. While all of the other costs of administering the career school licensing are covered by the licensing fees paid by the career schools, the benefit costs are born by the State of New Hampshire. In some ways, these are hidden costs in administering the career school licensing

The last item contained in SB 162 is the elimination of the Student Tuition Guarantee Fund. This fund was created as a way to protect students who may be affected by a school closure or the termination of a program before it is completed. This fund has continued to accumulate since its inception in 2007 (?) and there have been no disbursements from it. It is felt that a better way to cover such contingencies will be to have each school post a bond or a letter of credit made payable to the State of New Hampshire and to distribute the monies in the Guarantee Fund back to the schools who paid into the Fund.

.With these changes in the leadership and focus of career school licensing New Hampshire will become a leader in raising the level and focus of our career schools and allow it to take its place more appropriately in the education and training continuum within the State.

Thank you again for taking my testimony.

Peter Koch

Ciccio, Michael

From: nstiles@comcast.net
Sent: Monday, February 18, 2013 8:11 PM
To: Ciccio, Michael
Subject: Fwd: SB 162

Print out for committee members

Nancy F. Stiles
Senate District 24
603 271-6933

From: "Gail Fisher" <gail@alldogsgym.com>
To: nstiles@comcast.net
Sent: Monday, February 18, 2013 5:00:15 PM
Subject: SB 162

Dear Senator Stiles,

I'm writing in strong support of SB 162 relative to the licensing of postsecondary career schools. All Dogs Academy has been a NH State licensed career school since 2003 offering non-credit courses to adults interested in learning dog training or dog grooming as a profession or an avocation. Further, from 2006 through 2010, I was a founding member and member of the Board of the NH Council for Professional Education (NHCPE), a non-profit organization that seeks to address issues pertaining to postsecondary career education in New Hampshire.

As both an educator and school administrator/owner, I believe this bill is an important step in the right direction for adult vocational and professional education. Career schools play a vital role in providing and improving workers' skills in a wide variety of fields. The current oversight of career schools by the Department of Education rather than the Department of Employment Security has resulted in confusion, delays and lack of support. Career schools focusing on vocational training and adult education deserve greater attention, resources and support, not a priority for the Department of Education.

SB 162 seeks to eliminate several current state licensing requirements that are both time-consuming and onerous. For example, currently, licensed schools have to provide both a Surety Bond as well as pay into an unused Student Tuition Guarantee Fund, a challenging expense for a small school. The proposed rules change regarding refund of unused funds in the Student Tuition Guarantee Fund to schools that have contributed is helpful for small businesses, especially in the current economy. Another costly and unnecessary requirement eliminated by this legislation is the current requirement to submit audited financial statements. The cost for an audited financial statement is approximately \$10,000, an amount that is nearly 50% of All Dogs Academy's annual gross tuition. For a small school such as ours, and many others, the current licensing requirements are arduous and laborious as well as

costly to the extent that we have seriously considered closing our school.

Finally, the creation of a Career School Commission will provide both credibility and visibility to the important education provided by institutions dedicated to providing quality professional and vocational training. I strongly support this legislation.

Respectfully,

Gail Fisher, CD/BC
Certified Dog Behavior Consultant (IAABC)
Author of **THE THINKING DOG**

All Dogs Gym® & All Dogs Academy™

Manchester, NH 03103

(603) 669-4644

<http://www.alldogsgym.com>

<http://www.alldogsacademy.com>

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Thomas Institute of Hypnosis
Hypnosis NH, LLC

February 16, 2013

Senator Nancy Stiles

RE: Senate Bill 162-FN

Dear Senator Stiles:

Please do not allow SB162-FN to pass. I am a member of NH CPE and have been for several years. I had not heard anything about this bill until this past Monday, February 11, 2013, the day before a hearing was scheduled. I have read the bill and feel it will damage the high quality of our educational system for career schools. Many students look to alternatives from the traditional 2 and 4 year colleges and degree programs. The career schools offer an alternative and provide excellent education to that end.

Creating a system with a third party administrator determining the licensing and renewal licensing severely detracts from our educational system. To have a commission created to over see the postsecondary career schools operating in New Hampshire violates the proprietary information of the schools. The commission supported in SB 162-FN would be comprised of someone from the general public, as well as 2 peer career schools, one of whom would chair the commission. They would have access to confidential financial information, proprietary course information, proprietary marketing information, as well as, proprietary student lists. All information about the school would be open to carte blanche to the commission (some of whom would be competition) via inspections at any time. This information would allow unfair competitive advantage to those sitting on the committee and shocks the conscience to the current system in place which shows impartiality when dealing with post-secondary career schools. I have not had a chance to research this issue; however, I believe this may be in violation of Federal laws regarding proprietary information.

I also do not believe the fees should be lowered. In doing so, you are allowing anyone to basically open a career school. The financial barrier is one added 'safety' to creating a system that allows career schools to offer the best quality available in their fields of expertise. If the fee schedule (especially the initial licensing requirements) were to be lowered, the state would be inundated with requests to open new career schools, beyond

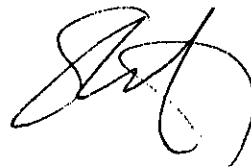
50 Bridge Street, Suite 303
Manchester, NH 03101
Tel: (603) 669-0185
thomashypnosis@comcast.net

their current capability. Further, it would open the door to potential career scams which would not protect the public seeking further education. It would be detrimental to the quality of the education that we provide. It appears that our post-secondary schools are now stable, having gone through a period several years ago where schools were closing their doors abruptly leaving students in a lurch, mid-stream in their educational endeavors. If the system is changed, the oversight is lessened with inexperienced and inappropriate state monitoring, a travesty could occur.

On a final note, I do not even understand why or how this Bill was introduced. The Career School Licensing division of the State Department of Education is doing a wonderful job of overseeing and monitoring the career schools. They do this in a professional unbiased manner. They show impartiality with the decisions that they make. They have a wealth of knowledge that only comes from the years of experience in the educational field. Why would anyone even think of removing the licensing and oversight of these career school programs to a department of the state that has none of knowledge and experience that the Department of Education has? Why would anyone think to remove educational programs and schools from the oversight of the Department of Education? The Career School Licensing division has undergone some transitions over the past 2 years. But the core of the division has remained strong and intact.

Therefore, I strongly urge that you do not allow SB 162-FN to pass.

Kind regards,



Dawn E. Whiting, BCH, CI
Member of the National Guild of Hypnotists

Cc: Kim Kenneally

50 Bridge Street, Suite 303
Manchester, NH 03101
Tel: (603) 669-0185
thomashypnosis@comcast.net

TESTIMONY OF RICHARD A. GUSTAFSON, DIRECTOR OF THE DIVISION OF HIGHER EDUCATION – HIGHER EDUCATION COMMISSION IN THE DEPARTMENT OF EDUCATION

SB 162 –FN: RELATIVE TO LICENSING OF POSTSECONDARY CAREER SCHOOLS

FEBRUARY 12, 2013

Postsecondary Career Schools provide an important educational service to the people of New Hampshire with short term educational programs which do not award degrees. The number of active career schools ranges between 80 and 90. They serve more than 25,000 students each year and have revenues of approximately \$20,000,000 annually.

For many years oversight of the career school was under the New Hampshire Postsecondary Education Commission and the Commission included a dedicated position representing the career schools. The Commission was responsible for rulemaking and the operation of career school licensure RSA 292-A.

The NH Postsecondary Education Commission was reorganized and downsized on July 1, 2011, and administratively attached to the Department of Education, becoming the Division of Higher Education. The Commission's designation was changed to the New Hampshire Higher Education Commission.

For a time the career school licensing function was transferred out of the Division of Higher Education into the Career and Technical Division of the Department of Education. In September of 2012, the career school function was again placed in the Division of Higher Education, where it currently resides.

The career school licensing process has always been self-funded by annual licensure fees paid by the career schools. This licensure fund is non-lapsing. The office has two approved positions, pays modest overhead charges to the state and uses no General Funds.

For some time there has been consideration of placing the career schools in the Department of Employment Security as a more natural fit, and establishing a small Career School Commission which would be responsible for the Administrative Rules and giving more focused attention to the needs of the career schools.

This legislation achieves these goals and a number of related outcomes of interest to the career schools community.

- Moves the career school licensing function from the Department of Education to the Department of Employment Security
- This legislation simplifies a number of definitions and functions of the oversight of New Hampshire's career schools.
- Definitions have been clarified and the identification of entities that are included and excluded from oversight by the Career School Commission are specified.
- Provision is made for the optional use of a contracted third party to administer some or all of the career school licensure activities through a competitive bidding process.

- Establishes a Career School Commission of five (5) members appointed by the Governor and Council
- The Commission would have the authority to adopt by-laws, establish rules, set licensure fees and fines, hear appeals, and have the responsibility to maintain academic records of schools that close.
- Abolishes the Student Guaranty Fund and disburses the funds back to the contributing schools in consultation with the department of justice. This was a fund established post-9/11 when career schools were unable to obtain performance bonds.

Should this bill be passed by the legislature and become law, the Career Schools Commission would then have the opportunity to re-write the Administrative Rules to achieve a greater level of clarity and simplicity.

This concludes my testimony and I will answer any questions you may have.

Thank you.

Opposition bullets to Senate Bill 162-FN

Under Analysis ... 'licensing and regulation of career schools under the Department of Education to the Department of Employment Security under the direction of the Career School Commission' ... to the casual reader, this statement implies that regulatory functions shifts from one department to another and that the Career School Commission will serve in an advisory position to the proposed administrator, the Department of Employment Security; however, the bill, as written, gives to the Career School Commission all encompassing "powers" (outlined 282-A:183 III; 282-A:184 I - V; 282-A:185 I - IV; 282-A:186; 282-A:187; 282-A:191 II - IV; 282-A:191; 282-A:192) to license and regulate career schools (outlined in 282-A:182 I).

because of differing agendas between the two departments, there will be loss of credibility both within Corporate America and within Academia

the aftermath of this movement will result in the derogation of educational standards of the Department of Education in favor of the standards and agendas, not found within the language of the bill, of the Department of Employment Security but more specially, as written, those of the Career School Commission, not found within the language of the bill

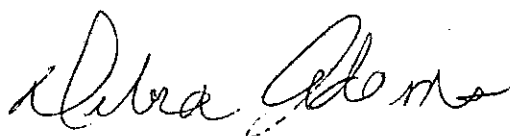
transferring responsibilities to an already overwhelmed Department of Employment Security, who, as written in this bill, has transferred licensing and regulatory activities to Career School Commission, we, leave the door open to having the entire career school system dominated by a few 'voting' members with their own special interests and agendas

these 'regulatory powers' granted to the Career School Commission, as written within this bill, make abuse prevalent, and opens the door to facilitating the potential for fraud as there is no language within this bill that states to whom the Department of Employment Security and more specially, the Career School Commission would be held accountable or answerable to nor is there written within this bill, procedures for the oversight of the named parties contained within the bill

Career School Commission membership (outlined 282-A:183; 282-A:192 II), as written in this bill, limits voting abilities to two owners or directors, one employer utilizing at least a graduate of a career school and the one 'non-voting' member with the proposed changes of one additional member of the NH Council of Professional Education being an owner or director and executive director of the Council.

represents direct competitors of those seeking licensure or renewal and presents as a conflict of interest thus raising a question of fair competition, hidden agendas and undue influence over other 'voting' members

the granted 'power' of the Career School Commission to 'hear' appeals from career schools applicants seeking licensure and aggrieved students make an objective, impartial hearing impossible for resolution

 403 540 0141

February 12, 2013

**Testimony of Marie-Helene Bailinson Esq.
New Hampshire Employment Security
Senate Health, Education & Human Services**

Re: Senate Bill 162, AN ACT relative to licensing of postsecondary career schools

The Department of Employment Security is in support of the transfer of the career school licensing function to a commission overseen and administered by the Department. The Department respectfully urges the committee to consider making the transfer of the career school licensing function contingent upon also transferring the staff person who currently works as administrative staff to the career school program at the Department of Education.

Because the program will be completely new to NH Employment Security, there is no one at the Department who is trained and prepared to begin working with the new commission. The support of this experienced staff person will make for a more seamless transition of the program to NH Employment Security and will be valuable in aiding to establish and organize the commission.

The Higher Education Commission has determined that two full time positions are required to staff the career schools program. The positions are funded by licensure fees. One is currently vacant. Based upon the Department of Education's experience, the Department of Employment Security can extrapolate that both positions are needed to fully staff the career school commission. These staff positions must transfer with the program to enable a viable transition.

The program will require staff persons to process and review license applications, correspond with schools relative to pending applications, conduct investigations of career schools and all of the other necessary functions relative to the 80 to 90 career schools which will be overseen by the Commissioner of Employment Security.

The Department has had an opportunity to review the revised version of SB 162 and agrees that it is much improved. One suggested change relates to rulemaking authority. According to the bill, only the commission has rulemaking authority relative to the licensure of career schools. However, upon transfer of the career schools program to the Department of Employment Security, the commission will become part of its organizational structure and not a stand alone agency. This means that the rulemaking authority must belong to the Commissioner of the Department of Employment Security solely.

The Department respectfully requests that the language of the bill be amended to clarify that the career schools commission will be part of the Department's organizational structure, that the commission will report to the Commissioner of Employment Security and that all rulemaking authority under RSA 541-A belongs to the Commissioner of Employment Security.

- Suggested Changes:

RSA 282-A:2, page 2

(h) "Third party **administratorion**".

(1) **administratorion** to administration, (2) process to **functions**.

Marie-Helene Bailinson, Esq.
New Hampshire Employment Security
32 South Main St.
Concord, NH 03301-4857
Tel (603) 228-4072
Fax (603) 228-4080
Marie-Helene.Bailinson@nhes

Complete Document

Can Be Viewed

In Bill Folder

2012-2013 NH Career School MEMBER DIRECTORY



CPPE

NH Council for Professional Education



A Message from NHCPE

The New Hampshire Council for Professional Education is pleased to provide this 2012-2013 Directory of Career Schools in New Hampshire to guidance counselors, recent high school graduates, adults seeking to upgrade their skills or change careers and residents pursuing new interests. Career schools provide an outstanding opportunity for individuals to add to their skills and improve their lives.

New Hampshire has over 100 licensed career schools. In 2011 over 30,000 individuals graduated from a variety of career school programs. The NHCPE was formed to help promote the New Hampshire career schools and to make our programs more visible to those who may be looking for and will benefit from programs our schools offer.

Career schools provide the graduating high school senior who is not sure college is the best option but seeks the skills for a good paying job and career. Graduates of our career schools have also improved their existing positions or obtained the skills to start a new career. Career schools are ideal for individuals who were employed directly out of high school and now seek a higher paying position requiring additional skills. They are also perfect for the community college or four year college graduate who wants to obtain more specific skills. Career schools provide an outstanding option for individuals who have been laid off and seek a new position or new career. Potential employers look favorably on job candidates who have taken the time to upgrade their skills. Importantly, career school programs are less costly and take less time than traditional two and four year college programs.

We invite you to review all of the many programs offered here in New Hampshire and find one that meets your specific needs or interests. Then contact the school and schedule an interview.

If you have any questions about NHCPE, our member schools or you would like more information about career schools, please contact our office and we will be happy to provide assistance.

AJ Lambert, Chairman
NHCPE

Peter Koch, Executive Director
NHCPE

Who's Who?

CHAIRMAN: AJ Lambert
VTech Academy

VICE CHAIRMAN: Stephen Appleby
New Horizons Computer Learning Center

TREASURER: Jared Laird
Laird Institute of Spa Therapy

SECRETARY:

CHIEF INFORMATION OFFICER: Nischal Chandra
Universal Media Institute Center for Professional Studies


MEMBERS-AT-LARGE:
Mark Harwood, Visible Edge Inc

EXECUTIVE DIRECTOR: Peter Koch
NHCPE

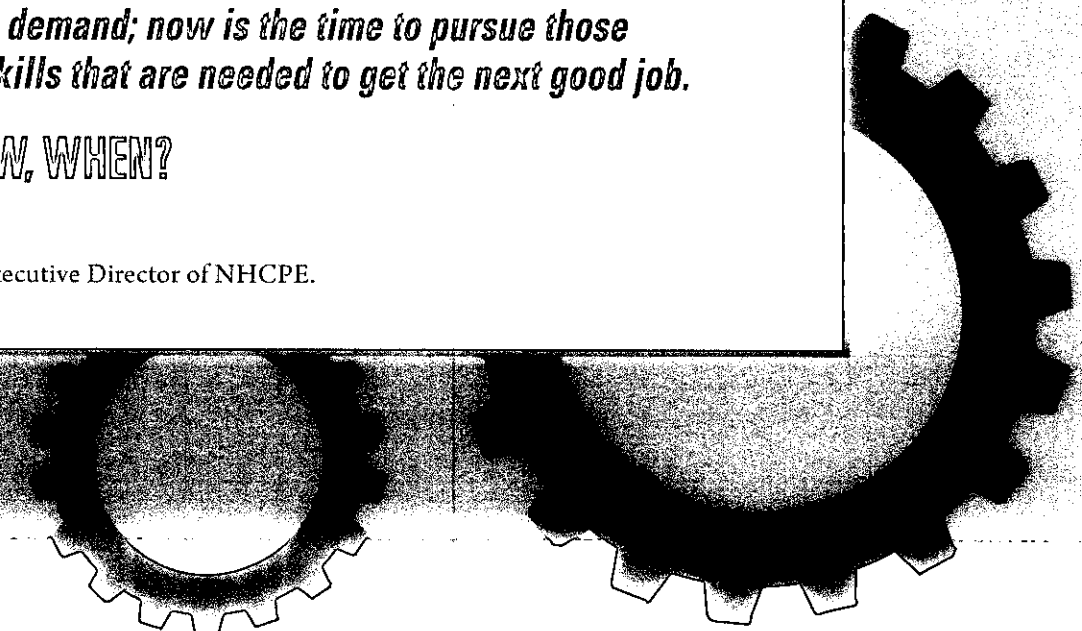
We gratefully acknowledge the following vendors who provide support and sponsorship for our career school programs and conferences throughout the year.

Liberty Mutual Group, Inc.
W B Mason
Boston Color Graphics
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Pearson Learning Solutions
TFC Tuition Financing
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Axzo Press

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3	<i>A Message from NHCPE</i>
5	<i>What is a Career School?</i>
6	<i>Not All Good Jobs Require a College Degree</i>
7	.....	<i>Making the Choice</i>
8	.....	<i>FACTS About Career Education</i>
9-23	.....	<i>NHCPE Member Schools</i>
25	.....	<i>Changing Careers With Six Months Of Training</i>
26-29	.....	<i>Career School Advertisements</i>



Skills are in demand; now is the time to pursue those additional skills that are needed to get the next good job.

IF NOT NOW, WHEN?

Peter T. Koch, Executive Director of NHCPE.



NH Council for Professional Education

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Section 1 Header
2013 SESSION

13-0299.0
04/03

SENATE BILL *[bill number]*

AN ACT relative to licensing of postsecondary career schools.

SPONSORS: [sponsors]

COMMITTEE: [committee]

ANALYSIS

This bill moves the licensing and regulation of career schools from the department of education to the department of employment security under the direction of the career school commission.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Section 2 Header

13-0299.0
04/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to licensing of postsecondary career schools.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subdivision; Career School Licensing. Amend RSA 282-A by inserting 1 after section 180
2 the following new subdivision:

3 Career School Licensing

4 282-A:181 Applicability. The department of employment security, career school commission
5 shall administer and regulate the licensing of career schools as provided in this subdivision.

6 282-A:182 Definitions; Exclusions.

7 I. In this subdivision:

8 (a) "Alternative delivery" means a mode of instruction which does not involve face-to
9 face instruction between instructor and student in the same geographic location. This mode of
10 instruction shall include Internet, televised, video, telephonic, and correspondence media.

11 (b) "Career school" means any for-profit or nonprofit postsecondary career entity
12 maintaining a physical presence in this state providing education or training for tuition or a fee that
13 enhances a person's occupational skills, or provides continuing education or certification, or fulfills a
14 training or education requirement in one's employment, career, trade, profession, or occupation.
15 Schools that offer resident or nonresident programs, including programs using modes of alternative
16 delivery, beyond the secondary school level to an entity shall be included in this definition regardless
17 of the fact that the school's tuition and fees from education and training programs constitute only a
18 part of the school's revenue.

19 (c) "Commission" means the career school commission as established in RSA 282-A:183.

(d) "Commissioner" means the Commissioner of the department of employment security.

20 (e) "Conference" or "seminar" means a scheduled meeting of 2 or more persons for
21 discussing matters of common concern and where, if training or education is offered, it shall be
22 incidental to the purpose of the conference.

23 (f) "Entity" means any individual, firm, partnership, association, corporation,
24 organization, trust, school, or other legal entity or combination of these entities.

25 (g) "Physical presence" means any physical location, place of contact, telephone
26 exchange, or mail drop in this state, and if an individual is conducting one or more of the following
27 activities within this state: **advising, mentoring, supervision, testing or instruction.**

28 ~~(1) Advertising.~~

29 ~~(2) Solicitation of potential students.~~

30 ~~(3) Enrollment of students.~~

31 ~~(4) Providing student services.~~

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1 ~~(5) Student mentoring.~~

2 ~~(6) Instruction of students.~~

3 (h) "Third party administrator" means any entity which ~~has been~~ may be selected through a
4 competitive bidding process conducted by the commission for the purpose of administering **some or all of the career**
5 school licensing process pursuant to this subdivision on behalf of the state.

6 (i) "Vendor" means an entity that promotes or exchanges goods or services for money.

7 (j) "Workshop" means a brief, intensive education or training program that focuses on
8 developing techniques and skills in a particular area.

9 II. In this subdivision, "career school" shall not include:

10 (a) Schools authorized to grant degrees pursuant to RSA 292.

11 (b) Schools specifically licensed as an education or training school by a state agency
12 other than the commission.

13 (c) Schools operated by a business organization exclusively for the training of that
14 business' own employees and at no charge to its employees.

15 (d) Schools offering noncredit courses exclusively for **avocational** purposes.

16 (e) Schools established, operated, and governed by the state of New Hampshire or any of
17 its political subdivisions, or any other state or its political subdivisions.

18 (f) Noncredit courses or programs sponsored by recognized trade, business, or
19 professional organizations solely for the instruction of their members that do not prepare or qualify
20 individuals for employment in any occupation or trade.

21 (g) Schools that offer programs and courses exclusively on federal military installations.

22 (h) Companies, individuals, or other legal entities that offer training at seminars,
23 workshops, or conferences, if:

24 (1) Any training or education offered is incidental to the purpose of the seminar,
25 workshop, or conference; and

26 (2) The attendee receiving the training is not awarded any form of a certificate,
27 diploma, or credit including continuing education units for having received the training.

28 (i) Vendors that offer incidental training associated with the purchase of a product from
29 said vendor, if the training is at no cost, its purpose is to familiarize the purchaser with the product's
30 use and the purchaser is not awarded any form of a certificate or diploma for having received the
31 training.

32 (j) An individual or facility training students under 14 C.F.R. part 91 or 14 C.F.R. part
33 141, or receiving flight or ground instruction required by the Federal Aviation Administration.

34 ~~(k) Entities offering only training courses at a total cost, including tuition and all other~~
35 ~~fees and charges, of not more than \$800 per course for which no payment, including a deposit, is~~
36 ~~required or collected prior to the first day of the course. This subparagraph shall not apply to~~
37 ~~entities that use alternative delivery methods.~~

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1 ~~(l) Entities offering training in the trades that have been approved by a state agency~~
2 ~~with appropriate jurisdiction, including but not limited to the plumbers' board, the electricians'~~
3 ~~board, the office of the state fire marshal, and the division of fire standards and training and~~
4 ~~emergency medical services.~~

5 (k) Computer technology vendors that offer fee-based training on courses of instruction
6 in the use of hardware or software if the course is offered to purchasers of such hardware or
7 software, or to the purchaser's employees, by a person who manufactures and sells, develops and
8 sells, or supports the hardware or software, and if the seller is not primarily engaged in the business
9 of providing courses of instruction in the use of the hardware or software.

10 (l) Entities that license software, the content of which is focused on training or
11 education, if the entity:

12 (1) Is primarily engaged in the business of licensing software;

13 (2) Licenses its software primarily to other legal entities, and not directly to an end
14 user or individual student;

15 (3) Does not confer degrees, diplomas, continuing education units, or any other form
16 of credit in connection with the software that it licenses;

17 (4) Is not accredited and does not seek accreditation in connection with the software
18 that it licenses or the content it offers; and

19 (5) Does not offer an admissions process, financial aid, career advice, or job
20 placement in connection with the software that it licenses.

21 282-A:183 Career School Commission.

22 I. There is established the career school commission in the department of employment
23 security. The commission shall consist of the following members:

24 ~~(a) One member from the department of employment security, appointed by the~~
25 ~~commissioner of the department of employment security.~~

26 (b) ~~Two~~ One owners or directors of a career schools, appointed by the governor and council.

27 (c) One employer who currently utilizes at least one graduate of a career school,
28 appointed by the governor and council.

29 (d) ~~One~~ Two public members, appointed by the governor and council.

30 (e) One member ~~from the~~ recommended by the New Hampshire Council for Professional Education, appointed
31 ~~by the executive director of the Council, who shall be a nonvoting member~~ by the governor and council.

32 II. The commission shall ~~adopt by laws,~~ elect a chairperson from its membership, and any other officers it
33 deems necessary. The terms of the appointed members shall be 3 4 years. In the event of a vacancy, a
34 new member shall be appointed for the unexpired term in the same manner as the original
35 appointment. The members of the commission, shall serve without compensation, but may be
36 reimbursed for actual travel and other expenses incurred in the performance of their duties on the

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commission from the career school funds appropriated to the department of employment security 1 specifically for this
2 purpose.

3 III. The commission shall:

(a) Establish rules for career school licensure.

4 (b) ~~Approve all license applications submitted to them by the third party administrator~~ **Oversee the career**
school licensure process approved by the commissioner or his/her designee.

5 (c) Annually review and approve all license fees and fines to be imposed, provided that
6 the fees and fines shall be sufficient to produce estimated revenues equal to 120 percent of the direct
7 operating expenses of the commission for the previous fiscal year.

8 (d) ~~Hear appeals from license applicants whose applications are denied related to this subdivision.~~

(e) **The commission shall preserve closed school academic records and upon request of the individual**
concerned, shall furnish a certified copy of the individual's record.

9 (d) ~~Hear all appeals from aggrieved students.~~

10 282-A:184 Licenses and Fees.

11 ~~I. Prior to registering or renewing a business or trade name, or soliciting students for~~
12 ~~enrollment, an entity maintaining a physical presence in this state shall submit an initial license~~
13 ~~application accompanied by the required application fee to the commission. The commission shall~~
14 ~~forward all submitted applications to the third party administrator which shall review all~~
15 ~~applications to determine if an entity requires a license. The commission shall establish procedures~~
16 ~~to accomplish this review. The commission shall establish an initial license application fee which~~
17 ~~shall not be not less than \$400. The commission shall establish renewal license application fees in~~
18 ~~subsequent years based on a percentage of the entity's gross tuition, provided the renewal fee shall~~
19 ~~not exceed 2 1/2 percent of the entity's gross tuition. In this paragraph, "gross tuition" means the~~
20 ~~total amount collected by the entity during its most recently completed fiscal year for tuition,~~
21 ~~application fees, and registration fees, less any refunds.~~

I. Prior to registering or renewing a business or trade name, or soliciting students
for enrollment, an entity maintaining a physical presence in this state shall be reviewed
to determine if the entity requires a license. The commission shall establish procedures to
accomplish this review.

22 ~~II. A career school shall register to obtain a license or license renewal from the commission.~~
23 ~~The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the~~
24 ~~commission. The rules shall establish minimum criteria, including but not limited to, financial~~
25 ~~stability, educational program, administrative and staff qualifications, business procedures,~~
26 ~~facilities, equipment, ethical practices to be met by licensees, criteria for rejecting a licensing~~
27 ~~applicant, including an administrative hearings process for rejected applicants, and a procedure for~~
28 ~~suspending or revoking a license.~~

II. A career school maintaining a physical presence in this state shall register to obtain a license or license renewal from the commission. The license shall be issued or renewed pursuant to rules, adopted under RSA 541-A, by the commission. The rules shall establish minimum criteria, including but not limited to, financial stability, educational program, administrative and staff qualifications, business procedures, facilities, equipment, closings, and ethical practices to be met by licensees, and criteria for rejecting a licensing applicant and for suspending or revoking a license.

9 ~~III. An entity that is not required to obtain a license may apply for a license and, upon~~
30 ~~issuance of the license, shall be subject to the provisions of this subdivision. Such entity may~~
31 ~~voluntarily surrender its license and revert to its original status.~~

III. A school that is not required to obtain a license may apply for a license and, upon issuance of the license, shall be subject to the provisions of this chapter. Such school may voluntarily surrender its license and revert to its original status.

32 IV. The commission shall adopt rules pursuant to RSA 541-A to establish reasonable fees and fines
33 reimbursement rates for consultants, and procedures for complaint investigations and enforcement
34 actions, which are necessary for the administration of this subdivision.

35 V. An entity which ~~the third party administrator has determined~~ requires a career school
36 license shall, prior to the issuance of a license, comply with the provisions of this subdivision section.

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1 282-A:185 Surety Indemnification. Before a license is issued or renewed, 1 a career school shall
2 meet the requirements of this subdivision by providing acceptable surety indemnification as
3 determined in this section.

4 I. A surety bond shall be provided by the career school in an amount prescribed in this
5 section. The obligation of the bond is that the school, its officers, agents, and employees shall
6 faithfully perform the terms and conditions of contracts for tuition and other instructional fees
7 entered into between the career school and entity enrolling as students. The bond shall be issued by
8 a company authorized to do business in the state of New Hampshire. The bond shall be issued in the
9 name of the commission, and is to be used only for payment of a refund of tuition and instructional
10 fees due to a student or potential student, and the expense of investigating and processing the
11 claims.

12 II. The amount of such bond shall be based on income from tuition at 10 percent of gross
13 tuition, with a \$10,000 minimum. ~~If a career school licensed under this subdivision should fail to~~
14 ~~provide the services required in a contract with any entity, as determined by a court of competent~~
15 ~~jurisdiction, the bond shall be forfeited, and the proceeds distributed by the commission in such~~
16 ~~manner as justice and the circumstances require.~~

17 III. The bond company may not be relieved of liability on the bond unless it gives the career
18 school and the commission 90 days written notice of the company's intent to cancel the bond. If at
19 any time the company that issued the bond cancels or discontinues the coverage, the career school's
20 license is revoked as a matter of law on the effective date of the cancellation or discontinuance of
21 bond coverage, unless a replacement bond is obtained and provided to the commission.

22 IV. ~~For the purposes of this section the forms of indemnification other than a surety bond~~
23 ~~which may be furnished to the commission for licensure are the following:~~

24 ~~(a) An irrevocable letter of credit, maintained for the licensing period as a minimum,~~
25 ~~issued by a financial institution authorized to do business in New Hampshire in an amount to be~~
26 ~~determined by the commission with the commission designated as the beneficiary; or~~

27 ~~(b) A term deposit account held in the state treasury, payable to the commission, held in~~
28 ~~trust for the benefit of students entitled thereto under this section. Said account shall be maintained~~
29 ~~for the licensing period as a minimum, in an amount determined by the commission. Any interest~~
30 ~~shall be paid annually to the appropriate career school, unless the term deposit account is activated~~
31 ~~due to a school closing. Should the licensee for any reason, while not in default, discontinue~~
32 ~~operation, all moneys on deposit, including any interest, shall be released to the appropriate school~~
33 ~~subject to the approval of the commission.~~

**IV. Indemnification may also be provided by an irrevocable letter of credit based on income
from tuition at 10 percent of gross tuition, with a \$10,000 minimum.**

34 282-A:186 Inspections. The commission may at any time inspect the premises, curriculum,

35 teaching materials, faculty performance, sales literature, financial data, or other matters which are
36 relevant to the educational and business activities of a licensed career school in order to determine
37 compliance with applicable laws and rules.

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1 282-A:187 Revocation; Hearing. The commission may, after due notice 1 and hearing, revoke the
2 license of any career school licensed pursuant to this subdivision for violating the provisions of this
3 subdivision or rules adopted hereunder. The provisions of RSA 541 shall apply to actions taken
4 pursuant to this section.

5 282-A:188 Waiting Period. Every contract that purports to bind any entity to pay money to a
6 career school in return for training shall be construed to be a home solicitation sales contract under
7 RSA 361-B and shall be subject to the provisions of RSA 361-B.

8 ~~282-A:189 Veterans, Education and Services Approval. The department of employment security~~
9 ~~may approve for veterans' education and services any institution licensed under this subdivision.~~
10 ~~The department may adopt rules, under RSA 541-A, relative to the procedures for approval of~~
11 ~~institutions for veterans' education and benefits.~~

12 282-A:190 Use of Fees. Notwithstanding any provision of law to the contrary, all license fees and fines
13 collected under the provisions of this subdivision shall be deposited in the career school licensing
14 fund established in this subdivision for use in meeting the expenses of administering this
15 subdivision.

16 282-A:191 Penalty.

17 I. Whoever violates any provision of this subdivision shall be guilty of a misdemeanor if a
18 natural person, or guilty of a felony if any other person.

19 II. Whenever the commission determines that a person is violating any provision of this
20 subdivision or the rules adopted hereunder, the commission shall request the attorney general, or
21 other appropriate official having jurisdiction, to provide appropriate relief.

22 III. The commission, upon verifying that a career school is operating without a license, shall
23 issue a cease and desist order to such school.

24 IV. The commission shall be notified whenever a cease and desist order is issued to a career
25 school, or if a career school fails to provide the services required under a contract with any entity
26 causing the bond to be forfeited, or if a career school is required to have a license but is operating
27 without a license.

28 282-A:192 Career School Licensing Fund Established. There is established in the department of
29 employment security a nonlapsing fund to be known as the career school licensing fund to be
30 administered by the commission, which shall be kept distinct and separate from all other funds. All
31 moneys in the fund shall be continually appropriated to the commission for the purpose of
32 administering this subdivision. The commission shall deposit all fees and fines collected pursuant to
33 this subdivision into this fund.

34 2 Application of Receipts; Career School Licensing Fund. RSA 6:12, I(b)(228) is repealed and
35 reenacted to read as follows:

36 (228) Fees collected by the career school commission pursuant to RSA 282-A:192.

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1 3 New Hampshire Workforce Opportunity Council; Membership. 1 Amend RSA 12-A:60, II to
2 read as follows:

3 II. Membership of the council shall be as set forth in section 111(b) of the Workforce
4 Investment Act of 1998, Public Law 105-220, codified at 29 U.S.C. section 2801 et seq., as such may
5 be amended, reauthorized, and in effect from time to time. *There shall be 2 additional members:*
6 *one member to be appointed by the governor and council on recommendation by the*
7 *New Hampshire Council for Professional Education, who shall be a resident of the state*
8 *and an owner or director of a career school, and the executive director of the*
9 *New Hampshire Council for Professional Education.* Members of the council [shall be]
10 appointed by the governor [and] shall serve at the pleasure of the governor. The governor shall
11 select a chairperson for the council from among the members of the council, in accordance with 29
12 U.S.C. section 2821(c).

13 4 Student Tuition Guaranty Fund; Disbursement of Funds. **I.** ~~The higher education commission shall close~~
14 ~~established in RSA 21-N:8-a shall refund the balance of funds in the student tuition guaranty fund~~
15 ~~established in the former RSA 188-G:4 as of the effective date of this act. less interest, to the schools~~
16 ~~which were responsible for contributing such funds. The higher education commission shall disburse~~
17 ~~any interest on such funds calculated as of the effective date of this act to the third party~~
18 ~~administrator as defined in RSA 282-A:182, I(g) as inserted by section 1 of this act, for the purpose of~~
19 ~~establishing and administering the career school licensing procedure.~~

II. No further annual fees for this fund will be assessed against any licensed career school.

III. The commission, in consultation with the department of justice, shall adopt rules pursuant to RSA
541-A relative to the disbursement of existing funds.

20 5 Repeal. The following are repealed:

21 I. RSA 21-N:8-a, II(e)(3), relative to duty of the higher education commission to regulate
22 private postsecondary career schools.

23 II. RSA 21-N:8-a, II(a)(9), relative to a member of the higher education commission who is a
24 representative of a private postsecondary career school.

25 III. RSA 21-N:8-a, II(e)(6)(C), relative to rulemaking authority of higher education
26 commission regarding private postsecondary career schools.

27 IV. RSA 188-G, relative to private postsecondary career schools.

28 V. RSA 6:12, I(b)(233), relative to the student tuition guaranty fund.

29 6 Effective Date. This act shall take effect July 1, 2013



For the record, my name is Diana Owen. I am the coordinator of the Office Technology program at the Nashua Adult Learning Center. We are licensed by the Department of Education to teach Computer Technology, Accounting and Medical Office Administration. Every year we train approximately 100 individuals in computer programs that ready them for the workplace.

I am asking this committee to oppose Senate Bill 162, which would create a commission that will include owners of computer training institutions. They will be voting on our license and will have access to our client list, financials, course curriculum, staffing patterns and promotional materials. Our opinion is that this constitutes a clear conflict of interest.

Further, the Department of Education offers an impartial, efficient, cost-effective process that does not need to change.

Thank you for your consideration.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: 03.06.13

THE COMMITTEE ON Health, Education and Human Services
to which was referred Senate Bill 162-FN

AN ACT relative to licensing of postsecondary career schools.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 5-0

AMENDMENT # 0737s

Senator Molly Kelly
For the Committee

Michael Ciccio 271-3093

New Hampshire General Court - Bill Status System

Docket of SB162

Docket Abbreviations

Bill Title: (New Title) repealing the student tuition guaranty fund and making provisions for the disbursement of remaining funds.

Official Docket of SB162:

Date	Body	Description
1/31/2013	S	Introduced and Referred to Health, Education & Human Services
2/6/2013	S	Hearing: 2/12/13, Room 103, LOB, 11:30 a.m.; SC8
2/13/2013	S	Hearing: === RECESSED === 2/12/13, Room 103, LOB, 11:30 a.m.
2/13/2013	S	Hearing: === RECONVENE === 2/19/13, Room 103, LOB, 9:00 a.m.; SC9
3/6/2013	S	Committee Report: Ought to Pass with Amendment #2013-0737s, NT, 3/14/13; SC11
3/14/2013	S	Committee Amendment 0737s, AA, VV;
3/14/2013	S	Ought to Pass with Amendment 0737s, MA, VV; Refer to Finance Rule 4-5;
3/21/2013	S	Committee Report: Ought to Pass, 3/28/13; SC13
3/28/2013	S	Ought to Pass: MA, VV; OT3rdg;
4/3/2013	H	Introduced and Referred to Education; HJ35 , PG.1191
4/9/2013	H	Public Hearing: 4/18/2013 1:00 PM LOB 207
4/17/2013	H	Executive Session: 4/30/2013 10:00 AM LOB 207
4/30/2013	H	Committee Report: Ought to Pass with Amendment #1401h(NT) for May 8 (Vote 18-0; RC); HC36 , PG.1201
4/30/2013	H	Proposed Committee Amendment #2013-1401h (New Title); HC36 , PG.1220
5/8/2013	H	Amendment #1401h(NT): AA VV; HJ41 , PG.1397
5/8/2013	H	Ought to Pass with Amendment #1401h(NT): MA VV; HJ41 , PG.1397
5/8/2013	H	Referred to Finance; HJ41 , PG.1397
5/15/2013	H	Division II Work Session: 5/28/2013 10:00 AM LOB 209
5/15/2013	H	Executive Session: 5/29/2013 10:00 AM LOB 210-211
5/30/2013	H	Committee Report: Ought to Pass for June 5 (Vote 23-0; CC); HC42 , PG.1428
6/5/2013	H	Ought to Pass: MA VV; HJ49 , PG.1569
6/12/2013	S	Sen. Stiles Moved Concur with House Amendment #1401h, NT, MA, VV
6/26/2013	H	Enrolled
6/26/2013	S	Enrolled
7/3/2013	S	Signed by the Governor on 07/02/2013; Chapter 0187; Effective 06/30/2013

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

SB162 ✓ ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

COMMITTEE REPORT

CALENDAR NOTICE 2

HEARING REPORT 2

HANDOUTS FROM THE PUBLIC HEARING

PREPARED TESTIMONY AND OTHER SUBMISSIONS

SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 0271s - AMENDMENT # 0737s
 - AMENDMENT # 0512s _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED _____ AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

_____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK 7/23/13

Mir
BY COMMITTEE AIDE